

WINSTON & STRAWN

SUITE 5000

ONE FIRST NATIONAL PLAZA

CHICAGO, ILLINOIS 60603

(312) 558-5600

TWX 910-221-5467

TELECOPIER (312) 558-5683

FREDERICK H. WINSTON (1853-1886)
SILAS H. STRAWN (1891-1946)

WASHINGTON, D. C. OFFICE
2550 M STREET, N. W.
WASHINGTON, D. C. 20037
(202) 828-8400

PHOENIX OFFICE
3101 NORTH CENTRAL AVENUE
1500 SOUTHWEST FINANCIAL PLAZA
PHOENIX, ARIZONA 85012
(602) 277-1776

October 30, 1986

Honorable Noretta R. McGee
Secretary
Interstate Commerce Commission
Washington, D.C. 20423

RECORDATION NO. 15092 Filed & Recorded

OCT 31 1986 10:40 AM

INTERSTATE COMMERCE COMMISSION

Dear Ms. McGee:

On behalf of Heller Financial, Inc., I submit for filing and recording under 49 U.S.C. Section 11303(a) and the regulations promulgated thereunder, an enclosed Security Agreement entered into as of October 7, 1986, which is a primary document not previously filed.

The parties to the enclosed document are:

First Security Bank of Utah, N.A. - Mortgagor
79 South Main Street
Salt Lake City, Utah 84111

Heller Financial, Inc. - Mortgagee
105 West Adams Street
Chicago, Illinois 60603

Itel Rail Corporation - Debtor
55 San Francisco Street
San Francisco, California 94133

The said document covers and grants to Heller Financial, Inc. a continuing security interest in the units of rolling stock identified on Schedule A thereto, together with all proceeds and products thereof.

A short summary of the document to appear in the Index is as follows:

No.

6-304AC20

Date

OCT 31 1986

Fee \$

10.00

ICC Washington, D.C.

100 HOURS OF
THIS STUFF
OCT 31 10 35 AM '86
MOTOR VEHICLE UNIT

new
Number
C. Campbell
10/31/86

Honorable Noreta R. McGee
Interstate Commerce Commission
October 30, 1986
Page Two

"Covers all units of rolling stock
identified on Schedule A to the Security
Agreement, together with all proceeds and
products thereof."

Enclosed is our check in the amount of ten dollars
(\$10.00) in payment of the filing fee.

Once this filing has been made, please return to bearer
the stamped counterparts of the document not needed for your
files, together with the fee receipt, and the letter from the ICC
acknowledging the filing.

Very truly yours,

James W. Doran
Attorney for
Heller Financial, Inc.
for the purpose of this
filing

Interstate Commerce Commission

Washington, D.C. 20423

10/31/86

OFFICE OF THE SECRETARY

James W. Doran
Winston & Strawn
Suite 5000
One First National Plaza
Chicago, Illinois 60603

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 10/31/86 at 10:40am , and assigned re-
recording number(s). 15092

Sincerely yours,

Noreta R. McGee
Secretary

Enclosure(s)

SE-30
(7/79)

OCT 31 1986 10-40 AM

SECURITY AGREEMENT

INTERSTATE COMMERCE COMMISSION

THIS SECURITY AGREEMENT dated as of October 7, 1986, among FIRST SECURITY BANK of UTAH, N.A. (the "Trustee") in its capacity as Trustee under the Consolidated, Amended and Restated Equipment Trust Agreement dated as of January 1, 1982 among the Trustee, ITEL RAIL CORPORATION, a Delaware corporation (the "Borrower") and Itel Corporation, a Delaware corporation, as amended by the First Amendment thereto effective as of the date hereof (collectively, the "Equipment Trust Agreement"); the Borrower and HELLER FINANCIAL, INC., a Delaware corporation (the "Secured Party").

WITNESSETH:

WHEREAS, the Secured Party has entered into a Loan and Security Agreement (hereinafter called the "Loan Agreement") effective as of the date hereof with the Borrower, pursuant to which the Secured Party has agreed to lend to the Borrower, subject to the terms and conditions of the Loan Agreement, up to Eighty Million Dollars (\$80,000,000) (the "Total Facility"); and

WHEREAS, the Total Facility is in the form of (i) a revolving loan in an amount not to exceed Fifteen Million Dollars (\$15,000,000) (the "Revolving Loan") and (ii) a term loan in an amount not to exceed Seventy Million Dollars (\$70,000,000) (the "Term Loan"); provided that the aggregate outstanding balance of the Term Loan and the Revolving Loan shall not at any time exceed Eighty Million Dollars (\$80,000,000); and

WHEREAS, all of the funds advanced by the Secured Party under the Term Loan and the initial advance of funds under the Revolving Loan will be paid to registered holders of Equipment Trust Certificates as part of the consideration to be paid to them under the "Restructuring Agreements" (as defined in the Loan Agreement), including, without limitation, those registered holders of Equipment Trust Certificates with respect to the 1978-2 Series Equipment Trust and the 1978-3 Series Equipment Trust electing to surrender their Equipment Trust Certificates in accordance with the Restructuring Agreements;

WHEREAS, the Secured Party will make future advances with respect to the Revolving Loan in accordance with the terms of the Loan Agreement and the proceeds of such future advances will be available for the Borrower to make payments required under the Equipment Trust Agreement for the benefit of those registered Equipment Trust Certificate holders electing not to surrender their Equipment Trust Certificates in accordance with the Restructuring Agreements;

WHEREAS, the execution and delivery of this Security Agreement by the Trustee is a condition precedent to the obligations of the Secured Party to make loans and advances to the Borrower under the Loan Agreement; and

WHEREAS, the performance by the Trustee of its obligations under this Security Agreement are subject to the provisions of Section 5 of this Security Agreement and the provisions of the Equipment Trust Agreement.

NOW, THEREFORE, in consideration of the premises and agreements hereinafter contained and for other valuable consideration, the receipt of which is hereby acknowledged, the parties hereto hereby agree as follows:

I. GRANTING CLAUSE

1.1. Granting Clause. As security for the due and punctual payment of the Borrower's "Obligations" under the Loan Agreement, including the performance and observance by the Borrower of its covenants for the benefit of the Secured Party contained therein, the Trustee does hereby convey, mortgage, assign, pledge, deposit and grant a security interest in and confirm unto the Secured Party, and to its successors and assigns, the following described property (herein being called "Collateral"):

(a) all the Trustee's estate, right, title and interest in and to the units of rolling stock described on Schedule A hereto (collectively, the "Units"), together with all proceeds and products thereof, subject and subordinate to the rights of the registered holders of Equipment Trust Certificates under the Equipment Trust Agreement; and

(b) all the Trustee's estate, right, title and interest in and to all accessories, equipment, parts, appurtenances and other items of tangible personal property of any kind (and all proceeds thereof) acquired by the Trustee in connection with its acquisition of the Units, whether acquired by the Trustee at the time of its acquisition of the Units, or thereafter acquired, and whether located on the Units or elsewhere, including all substitutions, renewals or replacements of and additions, improvements, accessions and accumulations to any and all of said Units, together with all rents, issues, income and profits therefrom, subject and subordinate to the rights of the registered holders of Equipment Trust Certificates under the Equipment Trust Agreement.

II. COVENANTS AND AGREEMENTS BY THE TRUSTEE AND THE BORROWER

2.1. Encumbrances. The Trustee will not intentionally create or cause the incurrence of any security interest, mortgage, pledge, or lien or other encumbrance of any nature whatsoever on any Unit except as required in accordance with the provisions of the Equipment Trust Agreement.

2.2. Further Assurances. At any time or times hereafter at the request of the Lender, the Borrower and, subject to the provisions of the Equipment Trust Agreement, the Trustee shall

execute and deliver all financing statements, security agreements, amendments thereto, or other documents (and the Borrower shall pay the cost of filing or recording the same in all public offices deemed necessary by the Secured Party), as the Secured Party may request, in a form satisfactory to the Secured Party, to perfect and maintain the security interests in the Collateral granted by the Trustee to the Secured Party or to otherwise protect and preserve the Collateral and the Secured Party's security interest therein or to enforce the Secured Party's security interests in the Collateral. Should the Borrower fail to do so, the Secured Party is authorized to sign any such documents as the Borrower's agent.

III. POSSESSION, USE AND RELEASE OF COLLATERAL

3.1. Possession of Collateral. So long as no event of default shall have occurred and be continuing as defined herein, the Borrower shall be entitled to the possession and use of the Units, subject to the provisions of the Equipment Trust Agreement.

IV. EVENTS OF DEFAULT AND REMEDIES

4.1. Events of Default. Any one or more of the following events shall constitute an event of default hereunder:

(a) the Borrower fails to pay any Obligation under the Loan Agreement which constitutes a principal payment when such principal payment is due or is declared due or the Borrower fails to pay any Obligation which constitutes a scheduled interest or annual service fee payment under the Loan Agreement within five (5) days following the date on which such scheduled interest or annual service fee payment is due or the Borrower fails to pay any other Obligation under the Loan Agreement within five (5) days following written notice by the Secured Party to the Borrower that such Obligation is past due;

(b) the Borrower fails or neglects to perform, keep or observe any of the covenants or agreements contained herein for a period of ten (10) days or more following written notice of such failure by the Secured Party to the Borrower; or

(c) any other "Event of Default" (as defined in the Loan Agreement) shall occur.

4.2 Remedies. Upon the occurrence of an event of default and acceleration or demand for payment in full of the Obligations:

(a) The Secured Party shall have, in addition to any other rights and remedies contained in this Security Agreement or in the Loan Agreement, all of the rights and remedies of a secured party under the Uniform Commercial Code of Illinois or other applicable laws, all of which rights and remedies shall be

cumulative and non-exclusive, to the extent permitted by law. In addition to all such rights and remedies, the sale, lease or other disposition of the Collateral, or any part thereof, by the Secured Party after an event of default and acceleration of demand for payment in full of the Obligations, may be for cash, credit or any combination thereof, and the Secured Party may purchase all or any part of the Collateral at public or, if permitted by law, private sale, and in lieu of actual payment of such purchase price, may set-off the amount of such purchase price against the Obligations then owing. Any sales of the Collateral may be adjourned from time to time without notice. The Secured Party may, in its sole discretion, cause the Collateral to remain on the Borrower's premises or otherwise or to be removed and stored at premises owned by other Persons, at the Borrower's expense, pending sale or other disposition of the Collateral. The Secured Party shall have the right to conduct such sales on the Borrower's premises, at the Borrower's expense, or elsewhere, on such occasion or occasions as the Secured Party may see fit.

(b) The Secured Party shall have the right to enter upon the premises of the Borrower where the Collateral is located (or is believed to be located) without any obligation to pay rent to the Borrower, or any other place or places where the Collateral is believed to be located and kept, to render the Collateral usable or salable, to remove the Collateral therefrom to the premises of the Secured Party or any agent of the Secured Party for such time as the Secured Party may desire in order effectively to collect or liquidate the Collateral, and/or to require the Borrower to assemble the Collateral and make it available to the Secured Party at a place or places to be designated by the Secured Party.

(c) The Secured Party shall have the right to take possession of the Borrower's original books and records, to obtain access to Borrower's data processing equipment, computer hardware and software relating to the Collateral and to use all of the foregoing and the information contained therein in any manner the Secured Party deems appropriate; and the Secured Party shall have the right to notify postal authorities to change the address for delivery of the Borrower's mail to an address designated by the Secured Party and to receive, open and dispose of all mail addressed to the Borrower (other than mail from the Borrower's counsel and clearly marked as such).

4.3 Sale or Other Disposition of Collateral by the Secured Party. In connection with any the enforcement of any remedies referred to herein, any notice required to be given by the Secured Party of a sale, lease or other disposition or other intended action by the Secured Party with respect to any of the Collateral which is deposited in the United States mails, registered or certified and duly addressed to the Borrower at the address specified in subsection 5.6 below, at least ten (10) business days prior to such proposed action, shall constitute fair and reasonable notice to the Borrower of any such action. The net

proceeds realized by the Secured Party upon any such sale or other disposition, after deduction for the expenses of retaking, holding, storing, transporting, preparing for sale, selling or otherwise disposing of the Collateral incurred by the Secured Party in connection therewith, shall, subject to the terms of section 5.1, be applied as provided in the Loan Agreement toward satisfaction of the Obligations including, without limitation, the Obligations described in subsections 2.11 and 10.2 of the Loan Agreement. The Secured Party shall account to the Borrower for any surplus realized upon such sale or other disposition, and the Borrower shall remain liable for any deficiency. The commencement of any action, legal or equitable, or the rendering of any judgment or decree for any deficiency shall not affect the Secured Party's security interests in the Collateral until the Obligations are fully paid. The Borrower agrees that the Secured Party has no obligation to preserve rights to the Collateral against any other parties. The Secured Party is hereby granted a license or other right to use, without charge, (following the occurrence of an event of default and acceleration or demand for payment in full of the Obligations) the Borrower's labels, "General Intangibles," "Intellectual Property," "Equipment," "Real Estate," (as such terms are defined in the Loan Agreement) patents, copyrights, rights of use of any name, trade secrets, trade names, trademarks, service marks and advertising matter, or any property of a similar nature, as it pertains to the Collateral, in the leasing of, advertising for sale or lease and selling or leasing of any Collateral, and the Borrower's rights under all licenses, leases and franchise agreements shall inure to the Secured Party's benefit until all Obligations are paid in full.

4.4 Waiver of Demand. DEMAND, PRESENTMENT, PROTEST AND NOTICE OF DEMAND, PRESENTMENT, PROTEST AND NONPAYMENT ARE HEREBY WAIVED BY THE BORROWER AND, TO THE EXTENT PERMITTED BY LAW AND NOT INCONSISTENT WITH THE EQUIPMENT TRUST AGREEMENT, BY THE TRUSTEE. THE BORROWER AND, TO THE EXTENT PERMITTED BY LAW AND NOT INCONSISTENT WITH THE EQUIPMENT TRUST AGREEMENT, THE TRUSTEE ALSO WAIVE THE BENEFIT OF ALL VALUATION, APPRAISAL AND EXEMPTION LAWS.

4.5 Waiver of Notice. IN THE EVENT OF THE OCCURRENCE OF AN EVENT OF A DEFAULT, THE BORROWER AND, TO THE EXTENT PERMITTED BY LAW AND NOT INCONSISTENT WITH THE EQUIPMENT TRUST AGREEMENT, THE TRUSTEE HEREBY WAIVE ALL RIGHTS TO NOTICE AND HEARING OF ANY KIND PRIOR TO THE EXERCISE BY THE SECURED PARTY OF ITS RIGHTS TO REPOSSESS THE COLLATERAL WITHOUT JUDICIAL PROCESS OR TO REPLEVY, ATTACH OR LEVY UPON THE COLLATERAL WITHOUT PRIOR NOTICE OR HEARING.

4.6 Waiver. The Secured Party's failure, at any time or times hereafter, to require strict performance of any provision of this Security Agreement shall not waive, affect or diminish any right of the Secured Party thereafter to demand strict compliance and performance herewith or therewith. Any suspension or waiver by the Secured Party of a default or an event of default under the Loan Agreement or this Security Agreement shall not suspend, waive

or affect any other event of default under the Loan Agreement or this Security Agreement, whether the same is prior or subsequent thereto and whether of the same or of a different kind or character. None of the undertakings, agreements, warranties, covenants and representations of the Borrower contained in the Loan Agreement or this Security Agreement and no event of default by the Borrower thereunder or hereunder shall be deemed to have been suspended or waived by the Secured Party unless such suspension or waiver is in writing and signed by an officer of the Secured Party, and directed to the Borrower specifying such suspension or waiver. The Loan Agreement may not be modified or amended except in a written agreement signed by the Borrower and the Secured Party. This Security Agreement may not be modified or amended except in a written agreement signed by the Borrower, the Secured Party and the Trustee.

4.7. Effect of Sale. Any sale, except a sale to an affiliate of the Secured Party, whether under any power of sale hereby given or by virtue of judicial proceedings, shall operate to divest all right, title, interest, claim and demand whatsoever, either at law or in equity, of the Borrower in and to the property sold, shall be a perpetual bar, both at law and in equity, against the Borrower, its successors and assigns, and against any and all persons claiming the property sold or any part thereof under, by or through the Borrower, its successors or assigns.

4.8. Discontinuance of Remedies. In case the Secured Party shall have proceeded to enforce any right under this Security Agreement by foreclosure, sale, entry or otherwise and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely, then and in every such case the Borrower and the Secured Party shall be restored to their former positions and rights hereunder with respect to the property subject to the security interest created under this Security Agreement.

V. CONDITIONS

5.1 Special Provisions. Notwithstanding any provision herein contained to the contrary:

(a) The Trustee shall not be deemed to have made any representation or warranty whatsoever as to its ownership of, title to, or interest in the Collateral.

(b) This Security Agreement shall be null and void and of no force and effect unless the Secured Party shall have become a registered holder of Equipment Trust Certificates and thereafter, but on or prior to October 31, 1986, the Trustee shall have received from the registered holders of Equipment Trust Certificates representing not less than two thirds of the aggregate principal amount of each series of Equipment Trust Certificates then outstanding, a written direction in accordance with the provisions of the Equipment Trust Agreement and in a form

reasonably satisfactory to the Trustee authorizing the execution and delivery hereof and the transactions contemplated hereby. The Borrower and the Trustee shall, at the Borrower's expense, take all actions necessary or appropriate to cause this Security Agreement and the transactions contemplated hereby to be submitted to the registered holders of Equipment Trust Certificates for approval prior to October 31, 1986.

(c) The Secured Party shall not cause or permit the filing or recordation of this Security Agreement or the perfection of the security interest granted hereby until the Trustee shall have delivered to the Secured Party a certificate stating that the condition in paragraph (b) above has been met.

(d) Based on information furnished to the Trustee by the Borrower, together with information contained in the Trustee's books and records, the Trustee represents and warrants to the Secured Party that it believes the only Equipment Trust Certificates outstanding under the Equipment Trust Agreement (other than those held by the Secured Party and other than those surrendered pursuant to the "Restructuring Agreements" as such term is defined in the Loan Agreement) are those described on Schedule B hereto.

(e) The Trustee agrees that it will not cause or permit Equipment Trust Certificates in addition to those described above to be issued except for Equipment Trust Certificates issued upon surrender for transfer of Equipment Trust Certificates of equal aggregate outstanding principal amount.

(f) The Secured Party agrees that upon any sale or other disposition of the Collateral in accordance with Sections 4.2 and 4.3 above, the Secured Party will deliver the proceeds thereof, first, to the Trustee for application pursuant to the terms of the Equipment Trust Agreement of an amount sufficient to pay all amounts payable under the Equipment Trust Agreement and, thereafter, the Lender shall apply such proceeds in accordance with the terms of the Loan Agreement.

(g) The Trustee shall have no right or obligation to enforce any obligation or covenant of the Borrower under this Security Agreement.

VI. MISCELLANEOUS

6.1. Filing. The Borrower will cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto to be filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303; and the Borrower will from time to time perform any other act and will execute, acknowledge, deliver and file any and all further instruments required by law and requested by the Secured Party for the purpose of protection, to the satisfaction of counsel for the Secured Party, of its rights in the Units and its rights under this Security Agreement or for the purpose of carrying out the intention of this Security Agreement; and the Borrower will promptly furnish to the Secured Party

certificates or other evidence of such filing satisfactory to the Secured Party.

6.2. Incorporation by Reference of Loan Agreement. The Loan Agreement is attached hereto as Schedule B and incorporated herein by reference. In the event any term or condition hereof is inconsistent with any term or condition contained in the Loan Agreement, such term or condition contained in the Loan Agreement shall be deemed controlling.

6.3. Governing Law. This Security Agreement shall be governed by, and shall be construed in accordance with, the laws of the State of Illinois, except that the construction or interpretation of the Equipment Trust Agreement shall be governed by the laws of the State of New York.

6.4. Severability of Invalid Provisions. Any provision of this Security Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

6.5. Counterpart Execution. This instrument and any amendment or supplement to this instrument may be executed in any number of counterparts and by the different parties hereto and thereto on separate counterparts, each of which, when so executed, shall be an original, but all such counterparts shall together constitute but one and the same instrument. Fully executed sets of counterparts shall be delivered to, and retained by, the Borrower and the Secured Party.

6.6. Notices. Except as otherwise expressly provided herein (or, with respect to the Trustee, as provided in the Equipment Trust Agreement), any notice required or desired to be served, given or delivered hereunder shall be in writing, and shall be deemed to have been validly served, given or delivered three (3) days after deposit in the United States mail, with proper postage prepaid, or upon delivery by courier or upon transmission by telex, telecopy or similar electronic medium to the following addresses:

- (i) (a) If to the Secured Party prior to December 31, 1986, at:

Heller Financial, Inc.
105 W. Adams Street
Chicago, Illinois 60603

Attn: Division President, Central Division,
Commercial Financial Services Group.

(b) If to the Secured Party after December 31, 1986:

Heller Financial, Inc.
200 N. LaSalle Street
Chicago, Illinois 60601

Attn: Division President, Central Division,
Commercial Financial Services Group.

(ii) If to the Borrower, at:

Itel Rail Corporation
55-Francisco Street
San Francisco, California 94133

Attn: President

(iii) If to the Trustee, at:

First Security Bank of Utah, N.A.
79 South Main Street
Salt Lake City, Utah 84111
Attn: Trust Department, Corporate Trust Department

or to such other address as each party designates to the other in the manner herein prescribed.

6.7. Amendments. This Security Agreement may, from time to time and at any time, be amended or supplemented by an instrument or instruments, in writing, executed by the parties hereto.

6.8. Release. The Secured Party shall, upon request of the Trustee or the Borrower, release this Security Agreement and the security interest granted hereby by proper instrument or instruments upon full and final payment of all of the Obligations or make partial releases pursuant to subsection 5.4 of the Loan Agreement.

6.9. Successors and Assigns. This Security Agreement shall be binding upon and shall inure to the benefit of the respective successors and assigns of the parties hereto.

6.10. Headings. Any headings or captions preceding the text of the several Sections hereof are intended solely for convenience of reference and shall not constitute a part of this Agreement nor shall they affect its meaning, construction or effect.

IN WITNESS WHEREOF, the Trustee, the Borrower and the Secured Party have each caused this instrument to be duly executed by their respective officers thereunto duly authorized, all as of the date first set forth above.

ITEL RAIL CORPORATION

By: Howard S. Chelmer

Title: Authorized Officer (Asst. Sec'y)

HELLER FINANCIAL, INC.

By: [Signature]

Title: AVP

FIRST SECURITY BANK
OF UTAH, N.A., in its
capacity as Trustee

By: _____

Title: _____

DGC/145/D.4/10:07:86

IN WITNESS WHEREOF, the Trustee, the Borrower and the Secured Party have each caused this instrument to be duly executed by their respective officers thereunto duly authorized, all as of the date first set forth above.

ITEL RAIL CORPORATION

By: _____

Title: _____

HELLER FINANCIAL, INC.

By: _____

Title: _____

FIRST SECURITY BANK
OF UTAH, N.A., in its
capacity as Trustee

By: R. Clayton

Title: ASSISTANT VICE PRESIDENT

DGC/145/D.4/10:07:86

STATE OF *Illinois*)
) ss.:
COUNTY OF *Cook*)

On this 7th day of October 1986, before me personally appeared Howard L. Chabner, to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of ITEL RAIL CORPORATION, a Delaware corporation, that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Martha L. Mathis
Notary Public

[Notarial Seal]

My Commission expires 3/31/90

STATE OF *Illinois*)
) ss.:
COUNTY OF *Cook*)

On this 17th day of October 1986, before me personally appeared Howard F. Jessen, to me personally known, who, being by me duly sworn, says that he is an Assistant Vice President of HELLER FINANCIAL, INC., a Delaware corporation, that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Martha L. Mathis
Notary Public

[Notarial Seal]

My Commission expires 3/31/90

STATE OF)
COUNTY OF)

ss.:

On this 7th day of October 1986, before me personally appeared Santa Lisa Clayton to me personally known, who, being by me duly sworn, says that he is a ASST. Vice President of FIRST SECURITY BANK OF UTAH, N.A., a national banking association, that the foregoing instrument was signed on behalf of said association in its capacity as Trustee by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said association.

[Notarial Seal]

Serrano Cortez
Notary Public

My Commission Expires April 30, 1990

SCHEDULE A
ETC Rolling Stock
Part 1
1978 SERIES 2 ETC SERIES TRUST

		NUMBER OF CARS	TYPE OF CAR
AHW	4006-4007		
AHW	4015-4020		
AHW	4022-4023		
AHW	4025-4026		
AHW	4029-4032		
AHW	4035		
AHW	4038-4040		
AHW	4043		
AHW	4045-4046		
AHW	4048		
AHW	4050-4051		
AHW	4054-4055		
AHW	4057		
AHW	4060		
AHW	4062-4063		
AHW	4068-4069		
AHW	4071-4075		
AHW	4079		
AHW	4081		
AHW	4085		
AHW	4091		
AHW	4094		
AHW	4098		
ALM	1500-1575	98	XM
ALM	1577		
ALM	1579-1599		
AN	2101	51	XM
AN	5550-5599		
ASAB	7200-7230	97	XM
ASAB	7232-7259		
ASAB	7261-7282		
ASAB	7284-7299		
BN	377300-377399	100	XM

1978 SERIES 2 ETC SERIES TRUST

		NUMBER OF CARS	TYPE OF CAR
CCR	6000-6049	60	XM
CCR	6390-6399		
CLP	3104-3105	39	XM
CLP	3108-3109		
CLP	3112		
CLP	3114		
CLP	3116		
CLP	3119		
CLP	3122		
CLP	3130-3132		
CLP	3134-3135		
CLP	3141		
CLP	3145-3146		
CLP	3151-3152		
CLP	3154-3155		
CLP	3158		
CLP	3160-3161		
CLP	3163-3164		
CLP	3170		
CLP	3173		
CLP	3175		
CLP	3178-3181		
CLP	3185-3186		
CLP	3191		
CLP	3195		
CLP	3197-3198		
COER	1400-1424	25	XM
COP	7204-7205	70	XM
COP	7208		

1978 SERIES 2 ETC SERIES TRUST

	NUMBER OF CARS	TYPE OF CAR
COP	7213	
COP	7215	
COP	7218	
COP	7220-7221	
COP	7224-7225	
COP	7228	
COP	7232	
COP	7235	
COP	7241	
COP	7245	
COP	7247	
COP	7250	
COP	7252	
COP	7257-7258	
COP	7260	
COP	7265	
COP	7268-7269	
COP	7272	
COP	7274	
COP	7277-7279	
COP	7285-7286	
COP	7290	
COP	7293	
COP	7295	
COP	7297	
COP	7299-7300	
COP	7303	
COP	7308-7309	
COP	7311	
COP	7314	
COP	7317	
COP	7319	
COP	7327	
COP	7329	
COP	7335	
COP	7338	
COP	7341-7342	
COP	7344	
COP	7346	
COP	7349	
COP	7351	
COP	7353	
COP	7359	
COP	7365	

1978 SERIES 2 ETC SERIES TRUST

	NUMBER OF CARS	TYPE OF CAR
COP 7367		
COP 7369		
COP 7371		
COP 7375-7376		
COP 7382		
COP 7384-7387		
COP 7389		
COP 7392		
COP 7400		
GBW 8052-8197	146	XM
GMRC 750-771	48	XM
GMRC 773-794		
GMRC 796-799		
HS 4001	127	XM
HS 4003		
HS 4005		
HS 4008-4012		
HS 4033-4034		
HS 4036		
HS 4044		
HS 4052-4053		
HS 4056		
HS 4061		
HS 4070		
HS 4076		
HS 4078		
HS 4082		
HS 4088-4090		
HS 4092-4093		
HS 4095		
HS 4099		
HS 70101-70200		
KCS 755001	47	XM
KCS 755010		
KCS 755028		
KCS 755036		

1978 SERIES 2 ETC SERIES TRUST

	NUMBER OF CARS	TYPE OF CAR
KCS	755044	
KCS	755052	
KCS	755061	
KCS	755079	
KCS	755087	
KCS	755095	
KCS	755109	
KCS	755117	
KCS	755125	
KCS	755133	
KCS	755141	
KCS	755150	
KCS	755168	
KCS	755176	
KCS	755184	
KCS	755192	
KCS	755206	
KCS	755214	
KCS	755222	
KCS	755231	
KCS	755249	
KCS	755257	
KCS	755265	
KCS	755273	
KCS	755281	
KCS	755290	
KCS	755303	
KCS	755311	
KCS	755320	
KCS	755338	
KCS	755346	
KCS	755354	
KCS	755362	
KCS	755371	
KCS	755389	
KCS	755397	
KCS	755401	
KCS	755419	
KCS	755427	
KCS	755435	
KCS	755443	
KCS	755451	
KCS	755460	

1978 SERIES 2 ETC SERIES TRUST

		NUMBER OF CARS	TYPE OF CAR
LEF	2500-2579	80	SEM
MB	4006-4018	91	XM
MB	4020-4051		
MB	4053-4067		
MB	4069-4099		
MR	1010	260	XM
MR	1012		
MR	1014		
MR	1016		
MR	1018		
MR	1030		
MR	1032		
MR	1034		
MR	1036		
MR	1038		
MR	1050		
MR	1052		
MR	1054		
MR	1056		
MR	1058		
MR	1070		
MR	1072		
MR	1074		
MR	1076		
MR	1078		
MR	1090		
MR	1092		
MR	1094		
MR	1096		
MR	1210		
MR	1212		
MR	1214		
MR	1216		
MR	1218		
MR	1230		
MR	1232		

1978 SERIES 2 ETC SERIES TRUST

	NUMBER OF CARS	TYPE OF CAR
MR	1234	
MR	1236	
MR	1238	
MR	1252	
MR	1254	
MR	1256	
MR	1258	
MR	1270	
MR	1272	
MR	1274	
MR	1276	
MR	1278	
MR	1292	
MR	1294	
MR	1296	
MR	1298	
MR	1410	
MR	1412	
MR	1414	
MR	1416	
MR	1418	
MR	1430	
MR	1432	
MR	1434	
MR	1436	
MR	1438	
MR	1450	
MR	1454	
MR	1456	
MR	1458	
MR	1470	
MR	1472	
MR	1474	
MR	1276	
MR	1478	
MR	1490	
MR	1492	
MR	1494	
MR	1496	
MR	1498	
MR	1610	
MR	1612	
MR	1614	
MR	1616	

1978 SERIES 2 ETC SERIES TRUST

	NUMBER OF CARS	TYPE OF CAR
MR 1618		
MR 1630		
MR 1632		
MR 1634		
MR 1636		
MR 1638		
MR 1650		
MR 1652		
MR 1654		
MR 1656		
MR 1658		
MR 1670		
MR 1672		
MR 1674		
MR 1676		
MR 1690		
MR 1694		
MR 1696		
MR 1698		
MR 4041		
MR 4084		
MR 7000		
MR 7004-7005		
MR 7007-7008		
MR 7010		
MR 7012		
MR 7018-7020		
MR 7023-7024		
MR 7040-7074		
MR 7081-7134		
MR 7153-7176		
MR 8050-8052		
MR 8054-8057		
MR 8059-8089		
MSE 800-855	244	XM
MSE 857-873		
MSE 876-914		
MSE 916-919		
MSE 921-969		
MSE 971-999		
MSE 1800-1849		

1978 SERIES 2 ETC SERIES TRUST

	NUMBER OF CARS	TYPE OF CAR
MTW 4300-4318	99	XM
MTW 4320-4324		
MTW 4326-4332		
MTW 4334-4399		
MTW 8049-8050		
NLG 5101-5161	359	XM
NLG 5163-5217		
NLG 5219-5288		
NLG 5290-5324		
NLG 5326-5375		
NLG 5377-5390		
NLG 5392-5400		
NLG 5601-5665		
NOPB 3000	344	XM
NOPB 3103-3127		
NOPB 3129-3141		
NOPB 3143-3151		
NOPB 3154-3155		
NOPB 3157		
NOPB 3159-3161		
NOPB 3163-3167		
NOPB 3169-3181		
NOPB 3183-3186		
NOPB 3188-3190		
NOPB 3193-3195		
NOPB 3197-3198		
NOPB 3200-3201		
NOPB 3203-3204		
NOPB 3206-3209		
NOPB 3211-3214		
NOPB 3216-3217		
NOPB 3219-3220		
NOPB 3222-3223		
NOPB 3225-3228		
NOPB 3230		
NOPB 3235-3236		
NOPB 3239-3243		
NOPB 3245		
NOPB 3247		
NOPB 3249		

1978 SERIES 2 ETC SERIES TRUST

	NUMBER OF CARS	TYPE OF CAR
NOPB 3252-3258		
NOPB 3260		
NOPB 3262-3272		
NOPB 3274-3281		
NOPB 3283-3285		
NOPB 3287		
NOPB 3291-3293		
NOPB 3295-3453		
NOPB 3455-3480		
NOPB 3482-3499		
PHD 2000-2037	194	XM
PHD 2039-2051		
PHD 2053-2059		
PHD 2061-2093		
PHD 2095-2119		
PHD 2121		
PHD 2123-2199		
QC 76000-76156	249	XM
QC 76257-76349		
SRN 5300-5349	50	XM
SSIX 1000-1012	93	SEM
SSIX 1014-1015		
SSIX 1017-1026		
SSIX 1028		
SSIX 1030-1044		
SSIX 1046-1075		
SSIX 1077-1080		
SSIX 1082-1099		
TASD 77111-77290	785	XM
TASD 77292-77300		
TASD 78001-78011		
TASD 78013-78079		
TASD 78081-78083		

1978 SERIES 2 ETC SERIES TRUST

		NUMBER OF CARS	TYPE OF CAR
TASD 78085-78393			
TASD 78395-78600			
TM	3000-3032	148	XM
TM	3034-3068		
TM	3070-3149		
VSO	6200-6249	100	XM
VSO	6350-6399		
Total:		4,049	

ETC Rolling Stock
Part 2

1978 SERIES 3 ETC SERIES TRUST

	NUMBER OF CARS	TYPE OF CAR
AHW 105525	1	FC
ALM 1250-1278 ALM 1600-1624	54	XM
AN 5600-5648 AN 5650-5799 AN 5800-5814	214	XM
BAR 9700-9718 BAR 9794-9888	114	XM
BN 377000-377119 BN 377121-377123	123	XM
CCR 6650-6805	56	XM
COER 100000-100030 COER 250004 COER 250008 COER 250011 COER 250017 COER 250019 COER 250022 COER 250027 COER 250032-250035 COER 250037 COER 250039 COER 250044 COER 250052 COER 250054-250055 COER 250063 COER 250065 COER 250067 COER 250073-250074	50	FC

1978 SERIES 3 ETC SERIES TRUST

	NUMBER OF CARS	TYPE OF CAR
DTI 90000-90063	233	FC
DTI 90065-90165		
DTI 90167-90234		
EACH 2162-2200	201	XM
EACH 2358		
EACH 2360		
EACH 2363-2366		
EACH 2370		
EACH 2372		
EACH 2375		
EACH 2379		
EACH 2389-2395		
EACH 2398-2399		
EACH 2401		
EACH 2407		
EACH 2415-2418		
EACH 2424		
EACH 2428		
EACH 2436-2437		
EACH 2440		
EACH 2448		
EACH 2454		
EACH 2456		
EACH 2459		
EACH 2461-2462		
EACH 2465		
EACH 2472		
EACH 2474-2475		
EACH 2477		
EACH 2480		
EACH 2483-2484		
EACH 2487-2488		
EACH 2497-2498		
EACH 2500		
EACH 4001-4005		
EACH 4007-4066		
EACH 4068-4071		
EACH 4073		
EACH 4075-4077		
EACH 4079-4085		
EACH 4087-4104		
EACH 4106-4150		

1978 SERIES 3 ETC SERIES TRUST

	NUMBER OF CARS	TYPE OF CAR
GBW 7000-7049	184	XM
GBW 8302-8303		
GBW 8306		
GBW 8317		
GBW 8319		
GBW 8323-8324		
GBW 8330-8331		
GBW 8333-8334		
GBW 8337		
GBW 8343-8344		
GBW 8346		
GBW 8348		
GBW 8353		
GBW 8357		
GBW 8362		
GBW 8364-8366		
GBW 8373-8374		
GBW 8377		
GBW 8379		
GBW 8385		
GBW 8389		
GBW 8392		
GBW 8395		
GBW 8399		
GBW 8402		
GBW 8413		
GBW 8419		
GBW 10000-10099		
<hr/>		
(GMRC 40401-40439	40	XM
<hr/>		
IAIS 902100-902124	25	FC
<hr/>		
KCS 756008	200	XM
KCS 756016		
KCS 756024		
KCS 756032		
KCS 756041		
KCS 756059		
KCS 756067		

1978 SERIES 3 ETC SERIES TRUST

	NUMBER OF CARS	TYPE OF CAR
KCS	756075	
KCS	756083	
KCS	756091	
KCS	756105	
KCS	756113	
KCS	756121	
KCS	756130	
KCS	756148	
KCS	756156	
KCS	756164	
KCS	756172	
KCS	756181	
KCS	756199	
KCS	756202	
KCS	756211	
KCS	756229	
KCS	756237	
KCS	756245	
KCS	756253	
KCS	756261	
KCS	756270	
KCS	756288	
KCS	756296	
KCS	756300	
KCS	756318	
KCS	756326	
KCS	756334	
KCS	756342	
KCS	756351	
KCS	756369	
KCS	756377	
KCS	756385	
KCS	756393	
KCS	756407	
KCS	756415	
KCS	756423	
KCS	756431	
KCS	756440	
KCS	756458	
KCS	756466	
KCS	756474	
KCS	756482	
KCS	756491	
KCS	756504	

1978 SERIES 3 ETC SERIES TRUST

	NUMBER OF CARS	TYPE OF CAR
KCS	756512	
KCS	756521	
KCS	756539	
KCS	756547	
KCS	756555	
KCS	756563	
KCS	756571	
KCS	756580	
KCS	756598	
KCS	756601	
KCS	756610	
KCS	756628	
KCS	756636	
KCS	756644	
KCS	756652	
KCS	756661	
KCS	756679	
KCS	756687	
KCS	756695	
KCS	756709	
KCS	756717	
KCS	756725	
KCS	756733	
KCS	756741	
KCS	756750	
KCS	756768	
KCS	756776	
KCS	756784	
KCS	756792	
KCS	756806	
KCS	756814	
KCS	756822	
KCS	756831	
KCS	756849	
KCS	756857	
KCS	756865	
KCS	756873	
KCS	756881	
KCS	756890	
KCS	756903	
KCS	756911	
KCS	756920	
KCS	756938	
KCS	756946	

1978 SERIES 3 ETC SERIES TRUST

	NUMBER OF CARS	TYPE OF CAR
KCS 756954		
KCS 756962		
KCS 756971		
KCS 756989		
KCS 756997		
KCS 757004		
KCS 757012		
KCS 757021		
KCS 757039		
KCS 757047		
KCS 757055		
KCS 757063		
KCS 757071		
KCS 757080		
KCS 757098		
KCS 757101		
KCS 757110		
KCS 757128		
KCS 757136		
KCS 757144		
KCS 757152		
KCS 757161		
KCS 757179		
KCS 757187		
KCS 757195		
KCS 757209		
KCS 757217		
KCS 757225		
KCS 757233		
KCS 757241		
KCS 757250		
KCS 757268		
KCS 757276		
KCS 757284		
KCS 757292		
KCS 757306		
KCS 757314		
KCS 757322		
KCS 757331		
KCS 757349		
KCS 757357		
KCS 757365		
KCS 757373		
KCS 757381		

1978 SERIES 3 ETC SERIES TRUST

	NUMBER OF CARS	TYPE OF CAR
KCS	757390	
KCS	757403	
KCS	757411	
KCS	757420	
KCS	757438	
KCS	757446	
KCS	757454	
KCS	757462	
KCS	757471	
KCS	757489	
KCS	757497	
KCS	757501	
KCS	757519	
KCS	757527	
KCS	757535	
KCS	757543	
KCS	757551	
KCS	757560	
KCS	757578	
KCS	757586	
KCS	757594	
KCS	757608	
KCS	757616	
KCS	757624	
KCS	757632	
KCS	757641	
KCS	757659	
KCS	757667	
KCS	757675	
KCS	757683	
KCS	757691	
KCS	757705	
KCS	757713	
KCS	757721	
KCS	757730	
KCS	757748	
KCS	757756	
KCS	757764	
KCS	757772	
KCS	757781	
KCS	757799	
KCS	757802	
KCS	757811	
KCS	757829	

1978 SERIES 3 ETC SERIES TRUST

	NUMBER OF CARS	TYPE OF CAR
KCS 757837		
KCS 757845		
KCS 757853		
KCS 757861		
KCS 757870		
KCS 757888		
KCS 757896		
KCS 757900		
KCS 757918		
KCS 757926		
KCS 757934		
KCS 757942		
KCS 757951		
KCS 757969		
KCS 757977		
KCS 757985		
KCS 757993		
MDW 2060	26	XM
MDW 2062-2075		
MDW 2077-2086		
MDW 10299		
MEC 105051-105125	75	FC
MR 2504	1	XM
MTW 1100-1116	17	XM
NLG 7150-7179	30	XM
NOPB 3550	396	XM
NOPB 3552-3556		
NOPB 3558-3566		
NOPB 3568-3571		
NOPB 3575-3586		
NOPB 3591		
NOPB 3593-3596		
NOPB 3598-3601		

1978 SERIES 3 ETC SERIES TRUST

	NUMBER OF CARS	TYPE OF CAR
NOPB 3605-3606		
NOPB 3608		
NOPB 3611-3613		
NOPB 3615		
NOPB 3617-3619		
NOPB 3621-3622		
NOPB 3627-3630		
NOPB 3632-3633		
NOPB 3635-3636		
NOPB 3639-3642		
NOPB 3646		
NOPB 3649		
NOPB 3651-3655		
NOPB 3657		
NOPB 3659-3664		
NOPB 3666		
NOPB 3668-3672		
NOPB 3675-3681		
NOPB 3684-3686		
NOPB 3688-3689		
NOPB 3691-3693		
NOPB 3695		
NOPB 3697-3698		
NOPB 3700		
NOPB 3703		
NOPB 3706-3707		
NOPB 3710		
NOPB 3712-3723		
NOPB 3725		
NOPB 3728-3730		
NOPB 3734-3739		
NOPB 3741-3748		
NOPB 3750		
NOPB 3752-3755		
NOPB 3757-3764		
NOPB 3767-3770		
NOPB 3773-3777		
NOPB 3779-3781		
NOPB 3783-3789		
NOPB 3791-3792		
NOPB 3794-3799		
NOPB 3803		
NOPB 3805-3810		
NOPB 3812-3814		

1978 SERIES 3 ETC SERIES TRUST

	NUMBER OF CARS	TYPE OF CAR
NOPB 3816-3817		
NOPB 3819-3822		
NOPB 3824-3826		
NOPB 3828-3829		
NOPB 3831-3832		
NOPB 3835-3839		
NOPB 3841-3844		
NOPB 3846-3851		
NOPB 3853		
NOPB 3855-3858		
NOPB 3860-3868		
NOPB 3870-3871		
NOPB 3873		
NOPB 3877-3878		
NOPB 3880-3882		
NOPB 3884-3885		
NOPB 3887-3888		
NOPB 3890		
NOPB 3892-3893		
NOPB 3895		
NOPB 3896		
NOPB 3898		
NOPB 3900		
NOPB 3901		
NOPB 3904-3908		
NOPB 3910-3912		
NOPB 3914-3918		
NOPB 3920		
NOPB 3922		
NOPB 3925-3934		
NOPB 3936		
NOPB 3938		
NOPB 3940-3943		
NOPB 3945-3954		
NOPB 3956		
NOPB 3958		
NOPB 3961-3976		
NOPB 3979-3980		
NOPB 3982-3991		
NOPB 3993		
NOPB 3995-3997		
NOPB 4000-4004		
NOPB 4007		
NOPB 4010-4011		

1978 SERIES 3 ETC SERIES TRUST

	NUMBER OF CARS	TYPE OF CAR
NOPB 4013-4017		
NOPB 4020		
NOPB 4022		
NOPB 4024-4027		
NOPB 4029-4031		
NOPB 4033-4036		
NOPB 4038		
NOPB 4042-4047		
NOPB 4050-4051		
NOPB 4053		
NOPB 4055-4059		
NOPB 4061-4063		
NOPB 4065-4066		
NOPB 4068-4069		
NOPB 4071-4073		
NOPB 4075-4076		
NOPB 4078-4079		
NOPB 4081-4088		
NOPB 4090-4094		
NOPB 4096-4099		
PHD 3000-3034	99	XM
PHD 4000-4024		
PHD 5000-5024		
PHD 5026-5039		
RV 1000-1024	25	XM
SFLC 901050-901099	717	FC
SFLC 901245-901356		
SFLC 901358-901457		
SFLC 901459-901544		
SFLC 901700-901719		
SFLC 901721-901724		
SFLC 902000-902049		
SFLC 902100-902244		
SFLC 902545-902635		
SFLC 902637-902666		
SFLC 902668-902678		
SFLC 902680-902699		

1978 SERIES 3 ETC SERIES TRUST

	NUMBER OF CARS	TYPE OF CAR
S00 54694-54894	200	FC
SRN 5400-5450	51	XM
TM 3150-3299	150	XM
WRWK 60004	28	XM
WRWK 60008		
WRWK 60014		
WRWK 60030		
WRWK 60052		
WRWK 60059		
WRWK 60066		
WRWK 60074		
WRWK 60076		
WRWK 60082		
WRWK 60086		
WRWK 60104-60105		
WRWK 60134		
WRWK 60141		
WRWK 60145-60146		
WRWK 60149		
WRWK 60153		
WRWK 60157		
WRWK 60160		
WRWK 60180		
WRWK 60195		
WRWK 60211		
WRWK 60228		
WRWK 60280		
WRWK 60283		
WRWK 60291		
Total:	3,310	

Schedule B

<u>Current Registered Holder</u>	<u>Series and Certificate Number</u>	<u>Outstanding Principal (7/30/86)*</u>	<u>Deferred Principal (7/30/86)</u>	<u>Deferred Interest (End of 1985)</u>	<u>Deferred Interest (1986 to July 30)</u>
Pace & Co.	1978-2 #82	\$695,681.02	\$5,086.99	\$169,435.42	\$34,773.54
Pace & Co.	1978-2 #164	**	**	**	**
Pace & Co.	1978-3 #33	398,853.99	623.98	78,902.07	21,108.96

*Not including deferred principal.

**Amounts shown in respect of certificate number 82 are the aggregate of amounts in respect of all certificates held by Pace & Co. in 1978 Series 2.

HELLER FINANCIAL, INC.

LOAN AND SECURITY AGREEMENT

WITH

ITEL RAIL CORPORATION

DATED AS OF

September 30, 1986

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LOAN AND SECURITY AGREEMENT

This Loan and Security Agreement ("Agreement"), dated as of this 30th day of September, 1986, by and between Itel Rail Corporation, a Delaware corporation with its principal place of business and chief executive office at 55 Francisco Street, San Francisco, California 94133 (the "Borrower"), and Heller Financial, Inc., a Delaware corporation with an office at 105 West Adams Street, Chicago, Illinois 60603 (the "Lender"):

W I T N E S S E T H:

WHEREAS, in connection with (i) the restructuring of the Borrower's outstanding indebtedness consisting of equipment trust certificates of several series upon terms and conditions satisfactory to the holders of all of such certificates; and (ii) the continued working capital needs of the Borrower subsequent to such restructuring, the Borrower desires to borrow up to Eighty Million Dollars (\$80,000,000) from the Lender, and the Lender is willing to make certain loans to the Borrower of up to such amount upon the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the terms and conditions contained herein, and of any loans or extensions of credit heretofore, now or hereafter made to or for the benefit of the the Borrower by the Lender, the parties hereto hereby agree as follows:

1. DEFINITIONS.

1.1 General Terms. When used herein, the following terms shall have the following meanings:

"Accounts" shall mean all of the Borrower's presently existing and hereafter arising or acquired accounts, accounts receivable, margin accounts, futures positions, book debts, causes of action, choses in action, notes, drafts, acceptances, chattel paper, and other forms of obligations now or hereafter owned or held by or payable to the Borrower relating in any way to Inventory or Excluded Rolling Stock or arising from the sale or lease of Inventory or Excluded Rolling Stock or the rendering of services by the Borrower or howsoever otherwise arising, including the right to payment of any interest or finance charges with respect thereto, together with all Inventory represented by any of the Accounts; all such Inventory that may be reclaimed or repossessed or returned to the Borrower; all of the Borrower's rights as an unpaid vendor, including stoppage in transit, reclamation, replevin, and sequestration; all pledged assets and all letters of credit, guaranty claims, liens, and security interests held by or granted to the Borrower to secure payment of any Accounts and which are delivered for or on behalf of any Account Debtor; all proceeds and products and any accessions to all of the foregoing

described properties and interests in properties; and all proceeds of insurance with respect thereto, including the proceeds of any applicable credit insurance or fidelity bond, whether payable in cash or in kind; and the proceeds of all of the foregoing; and all customer lists, ledgers, books of account, records, computer programs, computer disks or tape files, computer printouts, computer runs, and other computer prepared information relating to any of the foregoing.

"Account Debtor" shall mean the party who is obligated on or under an Account, including, with respect to any Account constituting a per diem car hire Account, the Person responsible on behalf of the lessee of such Rolling Stock for remitting payment on such Account to the Borrower.

"Affiliate" shall mean any Person (a) that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with the Borrower, (b) that directly or beneficially owns or holds 20% or more of any equity interest in the Borrower, or (c) 20% or more of whose voting stock (or in the case of a Person which is not a corporation, 20% or more of any equity interest) is owned directly or beneficially or held by the Borrower and shall include all officers and directors of the Borrower, the Guarantor or any entity deemed an Affiliate hereunder, but shall exclude any Person who would otherwise be deemed to be an Affiliate hereunder solely as a result of the equity interest in the Borrower received by such Person pursuant to the Restructuring Agreement.

"Amended ETC Series Trusts" shall have the meaning set forth in the Equipment Trust Agreement.

"Amended Trust Certificates" shall have the meaning set forth in the Equipment Trust Agreement.

"Assets" shall have the meaning usually given that term in accordance with Generally Accepted Accounting Principles.

"Borrower" shall mean Itel Rail Corporation, a Delaware corporation, and shall exclude the Short Line Railroads and any other Subsidiary or Affiliate.

"Business Day" shall mean any day other than a day on which banks in Chicago, Illinois or San Francisco, California are authorized or required to be closed.

"Cash Equivalents" shall mean (i) bank certificates of deposit, bankers' acceptances or time deposits (but only with banks (x) which do not have set-off rights against the foregoing and (y) having a combined capital and surplus in excess of \$500 million), (ii) commercial paper maturing within one year rated at least A-1 or the equivalent thereof

by Standard & Poors Corporation or P-1 or the equivalent thereof by Moody's Investor Service, Inc., or (iii) obligations maturing within one year issued or directly and fully guaranteed by the United States Government or any agency thereof.

"Casualty" shall mean any damage or occurrence with respect to an item of Collateral which renders such Collateral unusable in the ordinary course of the user's business and which cannot be repaired in a cost-effective manner as determined by the Borrower in the exercise of its reasonable business judgment.

"Casualty Value" shall mean, with respect to (a) any item of Rolling Stock which is subject to a Casualty, an amount determined in accordance with Rule 107 of the Association of American Railroads Field Manual of Interchange Rules, or any successor rule thereto, or (b) any other item of Collateral which is subject to a Casualty, an amount equal to the fair market value of such item of Collateral at the time of such Casualty.

"Closing Fee" shall have the meaning set forth in subsection 2.10 hereof.

"Collateral" shall mean all property and interests in property now owned or hereafter acquired by the Borrower in or upon which a security interest, lien or mortgage is now or hereafter granted to the Lender by the Borrower in accordance with Section 5 hereof.

"Conversion Date" shall mean each six month anniversary date of the date hereof which occurs during the Initial Term or any Renewal Term; provided, however, that if such date shall be a day other than a Business Day, then such Conversion Date shall be deemed to be the next succeeding Business Day.

"Current Asset Base" shall have the meaning ascribed thereto in subsection 2.1 hereof.

"Current Liabilities" shall mean all of the following Liabilities of the Borrower and the Restricted Subsidiaries on a consolidated basis: accounts payable, Indebtedness payable on demand or within one year from the date of determination without any option on the part of the obligor to extend or renew beyond such year, the outstanding Balance of the Revolving Loan hereunder, and the current portion of long term Indebtedness required to be paid within one year.

"Default" shall mean an event which through the passage of time or the service of notice or both would mature into an Event of Default.

"Default Rate" shall mean a fluctuating or fixed interest rate per annum, as the case may be, equal to the sum of (a) the otherwise applicable Normal Rate, plus (b) 3%. In the event that the applicable Normal Rate is a fluctuating rate, then such interest rate shall be a fluctuating rate and each change in such interest rate shall take effect simultaneously with the corresponding change in the applicable Normal Rate.

"Eligible Accounts" shall have the meaning ascribed thereto in subsection 3.2 hereof.

"Equipment" shall mean all of the property of the Borrower constituting "equipment" for purposes of the Code, including, without limitation, process equipment, conveyors, machine tools, data processing and computer equipment with software and peripheral equipment (other than software and peripheral equipment constituting part of the Accounts), and all engineering, processing and manufacturing equipment, office machinery, furniture, materials handling equipment, tools, attachments, accessories, automotive equipment, trailers, trucks, forklifts, molds, dies, stamps, motor vehicles and other equipment of every kind and nature, and fixtures not forming part of the Borrower's real estate, all whether now owned or hereafter acquired, and wherever situated, together with all additions and accessions thereto, replacements therefor, all parts therefor, all substitutes for any of the foregoing, fuel, and all manuals, drawings, instructions, warranties and rights with respect thereto, and all products, proceeds and condemnation awards with respect to the foregoing; provided, that the foregoing shall not be deemed to include Inventory or Excluded Rolling Stock.

"Equipment Trust Agreement" shall mean the Consolidated, Amended and Restated Equipment Trust Agreement dated as of January 1, 1982 among the Trustee, the Guarantor and the Borrower, as amended by the First Amendment to the Consolidated, Amended, and Restated Equipment Trust Agreement.

"Equipment Trust Certificate" shall mean each of these equipment trust certificates issued pursuant to the Equipment Trust Agreement.

"Event of Default" shall mean the occurrence or existence of any one or more of the following events: (a) the Borrower fails to pay any Obligation hereunder which constitutes a principal payment when such principal payment is due or is declared due or the Borrower fails to pay any Obligation which constitutes a scheduled interest or annual service fee payment within five (5) days following the date on which such scheduled interest or annual service fee payment is due or the Borrower fails to pay any other Obligation hereunder within five (5) days following written notice

by the Lender to the Borrower that such Obligation is past due; (b) the Borrower or the Guarantor fails or neglects to perform, keep or observe any of the covenants or agreements contained in any of the subsections of this Agreement or in any of the other Financing Agreements for a period of ten (10) days or more following written notice of such failure by the Lender to the Borrower (other than occurrences referred to or embodied in other provisions of this subsection); (c) any warranty or representation now or hereafter made by the Borrower or the Guarantor in connection with this Agreement or any of the other Financing Agreements, or any schedule, certificate, statement, report, financial data, notice, or writing (excluding the Projections) furnished at any time by the Borrower or the Guarantor to the Lender, misstates any fact set forth therein or omits any fact required to be set forth therein as of the date on which the facts set forth therein are stated or certified, and (i) such misstatement or omission occurs under circumstances indicating that such misstatement or omission was knowingly or intentionally made and such misstatement or omission is material in any respect or (ii) such misstatement or omission is material as it relates to the Borrower's business, operations or financial condition or the value of the Collateral; (d) any lien, levy, or assessment is filed or recorded with respect to all or any material part of the Collateral or the assets of the Borrower by the United States, or any department, agency or instrumentality thereof, or by any state, county, municipality or other governmental agency and on or before the twentieth (20th) day thereafter such lien, levy or assessment is not released, dismissed, stayed or lifted, except as otherwise permitted by clause (i) of subsection 8.1; (e) all or any material part of the Collateral or the assets of the Borrower are attached, seized, subjected to a writ or distress warrant, or levied upon, or comes within the possession or control of any judgment creditor, receiver, trustee, custodian or assignee for the benefit of creditors and on or before the twentieth (20th) day thereafter such Collateral or assets are not returned to the Borrower as applicable or such writ, distress warrant or levy is not dismissed, stayed or lifted; (f) a proceeding under any bankruptcy, reorganization, arrangement of debt, insolvency, readjustment of debt or receivership law or statute is filed by either of the Borrower or the Guarantor or any such action is filed against either of the Borrower or the Guarantor and not stayed or dismissed within thirty (30) days thereafter with respect to the Borrower or sixty (60) days thereafter with respect to the Guarantor, or either of the Borrower or the Guarantor makes an assignment for the benefit of creditors or either of the Borrower or the Guarantor takes any action to authorize any of the foregoing; (g) either of the Borrower or the Guarantor voluntarily or involuntarily dissolves or is dissolved, terminates or is terminated, liquidates or is liquidated; (h) either of the Borrower or the Guarantor fails generally to pay its Liabilities (or debts in the case of the

Guarantor) as they become due; (i) the Borrower is enjoined, restrained, or in any way prevented by the order of any court or any administrative or regulatory agency from conducting all or any material part of its business if such injunction or restraint has a material adverse effect on the financial condition of the Borrower; (j) any default(s) or breach(es) under any agreement(s) evidencing Indebtedness of the Borrower in an aggregate amount exceeding \$1,000,000 shall occur and shall continue after any applicable grace period specified in any such document(s) if the effect of such default(s) or breach(es) is to accelerate the maturity of any such Indebtedness or any such Indebtedness shall be declared to be due and payable, or be required to be prepaid (other than by a regularly scheduled or required prepayment), prior to the stated maturity thereof; (k) any default(s) or breach(es) under any agreement evidencing Indebtedness of the Guarantor in an aggregate amount exceeding \$10,000,000 shall occur and shall continue after any applicable grace period specified in such document(s) if the effect of such default(s) or breach(es) is to accelerate the maturity of any of such Indebtedness, or any such Indebtedness shall be declared to be due and payable, or be required to be prepaid (other than a regularly scheduled or required prepayment), prior to the stated maturity thereof; (l) entry of a judgment or judgments against the Borrower in excess of \$1,000,000 in the aggregate which are not stayed, bonded, vacated, paid or discharged within thirty (30) days after entry; (m) termination of any Plan which results in the imposition of a lien, security interest or encumbrance on any part of the Collateral or on any material part of the Borrower's other assets and on or before the twentieth (20th) day thereafter, such lien, security interest or encumbrance is not released, dismissed, stayed or lifted; (n) the loss, suspension, revocation or failure to renew any license or permit now held or hereafter acquired by the Borrower, which loss, suspension, revocation or failure to renew has a material adverse effect on the financial condition of the Borrower, or (o) the Borrower fails to perform, keep or observe any of the covenants contained in subsections 3.5, 7.5, 7.6, 7.10, 7.11, 7.12, or 7.13 or in Section 8 hereof for a period of five (5) days or more following written notice of such failure by the Lender to the Borrower; or (p) the Borrower fails to perform, keep or observe the covenants contained in clause (vi) of subsection 7.1.

"Excluded Rolling Stock" shall mean those railroad cars, trailers and related items (i) listed on Exhibit 1.1B or (ii) acquired in accordance with the provisions of subsections 5.4 and 8.1 hereof, as such of the foregoing may be remarked with new or different identification numbers from time to time.

"Financing Agreements" shall mean all agreements, instruments and documents, including, without limitation,

security agreements, loan agreements, notes, guarantees, mortgages, deeds of trust, subordination agreements, pledges, powers of attorney, consents, assignments, contracts, notices, leases, financing statements and all other written matter whether heretofore, now, or hereafter executed by or on behalf of the Borrower or the Guarantor and delivered to the Lender in connection with this Agreement.

"Generally Accepted Accounting Principles" shall mean, as of the date of any determination with respect thereto, generally accepted accounting principles as used by the Financial Accounting Standards Board and/or the American Institute of Certified Public Accountants, consistently applied and maintained throughout the periods indicated.

"General Intangibles" shall mean all of the Borrower's presently owned or hereafter acquired goodwill, choses in action, causes of action, franchises, methods, sales or leasing literature, drawings, specifications, descriptions, name plates, catalogs, dealer contracts, supplier contracts, distributor agreements, confidential information, consulting agreements, employment agreements, contract rights, engineering contracts, leasehold interests in real and personal property, including, without limitation, insurance policies (including business interruption insurance) and such other assets which uniquely reflect the goodwill of the business of the Borrower; deposit amounts, letters of credit, and General Intangibles relating to other items of Collateral, including without limitation, rights to refunds or indemnification and reversionary rights to pension fund assets; and proceeds of all of the foregoing, including without limitation, insurance proceeds, including proceeds of business interruption insurance, income tax refunds, and claims for tax or other refunds against any city, county, state, or federal government, or any agency or authority or other subdivision thereof.

"Guarantor" shall mean Itel Corporation, a Delaware corporation.

"Guaranty" shall mean the unsecured Guaranty of the Obligations of even date herewith by the Guarantor in favor of the Lender.

"Indebtedness" shall mean at a particular time, (a) indebtedness for borrowed money or for the deferred purchase price of property or services in respect of which a Person is liable, contingently or otherwise, as obligor, guarantor or otherwise or any commitment by which a Person assures a creditor against loss, including without limitation, as to the Borrower, the Obligations, the Subordinated Obligations, obligations under conditional sales contracts, and obligations to former Trust Certificate holders issued in connection with the Restructuring Agreements, (b) obligations under leases which shall have been or should be, in

accordance with Generally Accepted Accounting Principles, recorded as capital leases in respect of which obligations a Person is liable, contingently or otherwise, as obligor, guarantor or otherwise, or in respect of which obligations a Person assures a creditor against loss, and (c) any obligation of a Person to a "multiemployer plan" as such term is defined under the Employee Retirement Income Security Act of 1974, as amended ("ERISA").

"Initial Term" shall have the meaning ascribed thereto in subsection 2.8 hereof.

"Intellectual Property" shall mean all of the Borrower's present and future designs, patents, patent rights and applications therefor, trademarks and registrations or applications therefor, trade names, inventions, copyrights and all applications and registrations therefor, software or computer programs, license rights, trade secrets, methods, processes, knowhow, drawings, specifications, descriptions, and all memoranda, notes, and records with respect to any research and development, whether now owned or hereafter acquired by the Borrower, and proceeds of all of the foregoing, including, without limitation, proceeds of insurance policies thereon.

"Inventory" shall mean all of the property of the Borrower constituting "inventory" for purposes of the Code of every kind and description, now or at any time hereafter owned by the Borrower, wherever located, including, but not limited to, all merchandise, raw materials, parts, supplies, work-in-process and finished goods intended for sale or lease (including without limitation Rolling Stock but excluding Excluded Rolling Stock), together with all the containers, packing, packaging, shipping and similar materials related thereto, and including such inventory as is temporarily out of Borrower's custody or possession, including inventory on the premises of others and items in transit, and including any returns and repossessions upon any accounts, documents, instruments or chattel paper relating to or arising from the sale or lease of Rolling Stock (excluding Excluded Rolling Stock), inventory, and all substitutions and replacements therefor, and all additions and accessions thereto, and all ledgers, books of account, records, computer printouts, computer runs, and other computer prepared information relating to any of the foregoing, and any and all proceeds of any of the foregoing, including, without limitation, proceeds of insurance policies thereon.

"Liabilities" shall mean as of the date of any determination thereof, the total liabilities of the Borrower and the Restricted Subsidiaries, on a consolidated basis determined in accordance with Generally Accepted Accounting Principles.

"LIBOR Rate" shall mean, with respect to any calendar month, an interest rate equal to the arithmetic average of the one-month LIBOR rate for the first five London business days of such calendar month, rounded to the nearest one hundredth percent. The term "one-month LIBOR rate," as used in the preceding sentence, shall mean the per annum offered rate at the 11:00 A.M. (London time) fixing for one-month eurodollar deposits as displayed by Reuters on the page RMEY entitled "London Eurodollar Deposit Rates 1100," and the term "London business day" shall mean a day on which banks are dealing in eurodollar deposits in London, England.

"Normal Rate" shall mean the interest rate selected by the Borrower pursuant to Section 2.6 of this Agreement as being applicable to the Revolving Loan or the Term Loan, as the case may be, in the absence of an Event of Default.

"Obligations" shall mean all of the Borrower's obligations, liabilities and indebtedness arising under this Agreement or any other Financing Agreement to the Lender and/or any Participant and/or to any affiliate of the Lender of any and every kind and nature, whether heretofore, now or hereafter owing, arising, due or payable and howsoever evidenced, created, incurred, acquired, or owing, whether primary, secondary, direct, indirect, contingent, fixed or otherwise (including obligations of performance) and whether arising or existing under written agreement, oral agreement or operation of law.

"Participant" shall mean any Person now or from time to time hereafter participating with the Lender in the loans made by the Lender to the Borrower pursuant to this Agreement.

"Person" shall mean any individual, sole proprietorship, partnership, joint venture, trust, unincorporated organization, association, corporation, institution, entity, party, or government (whether national, federal, state, provincial, county, city, municipal or otherwise, including, without limitation, any instrumentality, division, agency, body or department thereof).

"Plan" shall mean any employee benefit or other plan maintained for the employees of the Borrower and covered by Title IV of ERISA.

"Prime Rate" shall mean an interest rate equal to the arithmetic average of the highest per annum rate as announced from time to time by each of The First National Bank of Chicago at its principal office in Chicago, Illinois, and Morgan Guaranty and Trust Company of New York, N.A. at its principal office in New York, New York, respectively, as its corporate base rate or equivalent for domestic commercial loans.

"Projections" shall mean the projected balance sheets, profit and loss statements, and cash flow statements of the Borrower, prepared in accordance with Generally Accepted Accounting Principles, together with appropriate supporting details and a statement of underlying assumptions, which have been and will be delivered to the Lender in accordance with the terms hereof by the Borrower, a copy of the first of which is attached hereto as Exhibit 6.4-2.

"Renewal Term" shall have the meaning ascribed thereto in subsection 2.8 hereof.

"Reportable Event" shall have the meaning assigned to that term in Title IV of ERISA.

"Restricted Subsidiary" shall mean any Subsidiary which the Borrower has designated in writing to the Lender as being subject to subsection 8.12 hereof, as such designation may be amended from time to time; provided, that each of the Borrower's existing Subsidiaries shall initially be deemed to be a Restricted Subsidiary.

"Restructuring" shall mean the restructuring of the debt and equity of the Borrower contemplated by the Restructuring Agreements.

"Restructuring Agreements" shall mean the contracts, agreements and instruments listed on Exhibit 1.1C hereto, in form and substance satisfactory to the Lender, between the Borrower and the parties listed thereon pursuant to which, on the date hereof, (i) the Guarantor will invest at least \$26,000,000 in cash in the Borrower as Subordinated Obligations, the terms of such subordination to be contained in the Subordination Agreement; (ii) all of the holders of the Borrower's Amended Trust Certificates Series 1976-1, 1977-1, 1977-2, 1978-1, 1978-2, 1978-3 and 1978-4 will exchange such Amended Trust Certificates for (a) cash equal to the sum of (1) \$108,600,000 and (2) an amount equal to interest accrued on \$128,000,000 at a 10% per annum rate from August 1, 1986 through the date hereof, (b) an aggregate of \$20,000,000 principal amount of 9.5% notes due 1993 and 10% notes due 1996 of the Borrower and (c) an aggregate of 20% of the common stock of the Borrower; and (iii) the Amended ETC Series Trusts will terminate and title to the Trust Equipment covered thereby will be transferred from the Trustee to the Borrower.

"Revolving Loan" shall have the meaning ascribed thereto in subsection 2.1 hereof.

"Rolling Stock" shall mean all railroad cars, trailers and other items of rolling stock, spare parts and other items of Inventory related thereto now owned or hereaf-

ter acquired by the Borrower, wherever located, other than Excluded Rolling Stock.

"Secondary CD Rate" shall mean, with respect to any calendar month, an interest rate equal to the arithmetic average of the one-month secondary CD rate for the first five Business Days of such calendar month, rounded to the nearest one hundredth percent. The term "one-month secondary CD rate," as used in the preceding sentence, shall mean the per annum rate shown for one-month certificates of deposit of major United States money market banks in the secondary market in the Federal Reserve statistical release H.15(519) or, if such publication shall be suspended or terminated, the arithmetic average of the quotations for such rate received by the Lender from three New York certificate of deposit dealers of recognized standing.

"Security Agreement" shall mean the Security Agreement of even date herewith between the Borrower and the Lender.

"Short Line Railroads" shall mean the short line railroads now held by the Borrower as Subsidiaries and listed on Exhibit 1.1D hereto or short line railroads subsequently acquired by the Borrower in accordance herewith and held by the Borrower as Subsidiaries.

"Solvency Affidavit" shall mean the Affidavit of Solvency of even date herewith executed by the chief executive officer of the Borrower in favor of the Lender.

"Solvent" shall mean, when used with respect to any Person, that (i) the fair salable value of its Assets is in excess of the total amount of its bona fide Liabilities (including for purposes of this definition all liabilities, whether or not reflected on a balance sheet prepared in accordance with Generally Accepted Accounting Principles, and whether direct or indirect, fixed or contingent, disputed or undisputed); and (ii) it is able to pay its debts or obligations in the ordinary course as they mature; and (iii) that Person has capital sufficient to carry on its business and all business in which it is about to engage.

"Subordinated Obligations" shall mean collectively the "Subordinated Debt" and "Preferred Stock" as defined in Schedule A to the Subordination Agreement and other Indebtedness or obligations hereafter owing by the Borrower to the Guarantor and which are subject to the Subordination Agreement.

"Subordination Agreement" shall mean the Subordination Agreement of even date herewith between the Guarantor and the Lender.

"Subsidiary" shall mean each of the Short Line Railroads and each other Person in which the Borrower now or hereafter owns, directly or indirectly, 25% or more of such Person's outstanding Voting Stock (or in the case of a Person which is not a corporation, 25% or more of the outstanding voting interest in such Person).

"Tangible Assets" shall mean as of the date of any determination thereof the total Assets of the Borrower and the Restricted Subsidiaries on a consolidated basis (excluding the Assets of any Affiliate that is not a Restricted Subsidiary and excluding any Asset subject to a security interest, encumbrance or restriction on transfer with respect to which the related liability is not reflected on a consolidated balance sheet of the Borrower, but only to the extent of such liability) (less applicable reserves and other properly deductible items) which under Generally Accepted Accounting Principles would be reflected on a consolidated balance sheet of the Borrower, after deducting therefrom organizational expenses, General Intangibles, Intellectual Property, investments in or monies due from any Affiliate, goodwill, covenants not to compete, research and development costs, training costs, and all unamortized debt discount, deferred charges (other than prepaid insurance) which in each case under Generally Accepted Accounting Principles, would be otherwise included on such balance sheet.

"Tangible Net Worth" shall mean as of the date of any determination thereof Tangible Assets less total Liabilities.

"Term Loan" shall have the meaning ascribed thereto in subsection 2.4 hereof.

"Total Facility" shall mean the amount of Eighty Million Dollars (\$80,000,000).

"Total Revolving Loan Facility" shall mean the amount of Fifteen Million Dollars (\$15,000,000).

"Total Term Loan Facility" shall mean the amount of Seventy Million Dollars (\$70,000,000).

"Trustee" shall mean First Security Bank of Utah, N.A. as Trustee under the Equipment Trust Agreement.

"Unrestricted Cash" and "Unrestricted Cash Equivalents" shall mean at the time of any determination thereof, all cash and Cash Equivalents held by the Borrower or any Restricted Subsidiary, other than cash or Cash Equivalents that (a) are, or are claimed to be, the property of a Person other than the Borrower or such Restricted Subsidiary, (b) are subject to any lien, claim or security interest of any Person other than the Lender, or (c) are subject to any law.

subject to any lien, claim, encumbrance or security interest except that of the Lender.

(b) With respect to Eligible Accounts described in subsection 3.2(b) and reflected in any Monthly Revenue Estimates Report, the Borrower warrants and represents to the Lender that the representations and warranties contained in clause (a) of subsection 3.3 have been and will be taken into account in preparing such Monthly Revenue Estimates Report and establishing reserves with respect thereto or determining exclusions therefrom.

3.4 Verification of Accounts. The Lender shall have the right, at any time or times hereafter, in the name of a nominee of the Lender reasonably acceptable to the Borrower, and, at any time or times after the occurrence of an Event of Default, in the Lender's name, to verify the validity, amount or any other matter relating to any Account, by mail, telephone, or in person.

3.5 Collection of Accounts and Payments. After the date hereof, the Borrower, and any of its Affiliates, employees, agents or other Persons acting for or in concert with the Borrower, shall, acting as trustee for the Lender, receive, as the sole and exclusive property of the Lender, any monies, checks, notes, drafts or any other payments constituting proceeds of Accounts or other Collateral which come into the possession or under the control of the Borrower or any Affiliates, employees, agents or other Persons acting for or in concert with the Borrower (excluding any car hire payments received by the Borrower as agent on behalf of the Persons to whom such car hire payments are owed), and immediately upon receipt thereof, the Borrower or such Persons shall deposit the same or cause the same to be deposited in the bank account designated in writing by the Lender to the Borrower as the Lender's depository account with respect to such monies, drafts, checks, notes and other payments (the "Depository Account"); provided, however, that the Borrower shall not be deemed to be acting as trustee for the Lender with respect to, nor to be receiving as the sole and exclusive property of the Lender, monies, checks, drafts, notes or other payments not constituting Collateral or proceeds of Collateral, and shall not be required herein to deposit the same in the Depository Account if prohibited from doing so by any other Person having rights therein. At any time when no Event of Default has occurred and is continuing, and there are no Revolving Loan Obligations outstanding, the Lender shall promptly remit to the Borrower all monies deposited in the Depository Account.

3.6 Appointment of the Lender as Borrower's Attorney-in-Fact. The Borrower hereby irrevocably designates, makes, constitutes and appoints the Lender (and all persons designated by the Lender) the Borrower's true and lawful agent and attorney-in-fact (which appointment shall for all purposes be deemed to be coupled with an interest and shall be irrevocable for so long as any Obligations are outstanding), and authorizes the Lender, in the Borrower's or the Lender's name, to: (a) following the

occurrence of an Event of Default and the acceleration of all or any portion of the Obligations (i) demand payment of Accounts constituting Collateral; (ii) enforce payment of Accounts constituting Collateral by legal proceedings or otherwise; (iii) exercise all of the Borrower's rights and remedies with respect to proceedings brought to collect an Account constituting Collateral; (iv) sell or assign any Account constituting Collateral upon such terms, for such amount and at such time or times as the Lender deems advisable; (v) settle, adjust, compromise, extend or renew an Account constituting Collateral; (vi) discharge and release any Account constituting Collateral; (vii) prepare, file and sign the Borrower's name on any proof of claim in bankruptcy or other similar document against an Account Debtor; (viii) notify the postal authorities of any change of the address for delivery of the Borrower's mail to an address designated by the Lender, and open and dispose of all mail addressed to the Borrower (excluding mail from the Borrower's counsel which is clearly marked as such); (ix) take control in any manner of any item of payment or proceeds of any Account constituting Collateral; (x) have access to any lockbox or postal box into which the Borrower's mail is deposited; and (xi) do all acts and things which are necessary, in the Lender's sole reasonable discretion, to fulfill the Borrower's Obligations under this Agreement; and (b) at any time, to (i) endorse the Borrower's name upon any items of payment or proceeds thereof and deposit the same in the Lender's account on account of the Borrower's Obligations; (ii) endorse the Borrower's name upon any chattel paper, document, instrument, invoice, or similar document or agreement relating to any Account constituting Collateral or any goods pertaining thereto; (iii) execute in the Borrower's name and on the Borrower's behalf any financing statements or amendments thereto; (iv) endorse the Borrower's name on any verification of Accounts constituting Collateral and notices thereof to Account Debtors; and (v) communicate with the Borrower's independent Certified Public Accountants.

3.7 Account Records. The Borrower shall at all times hereafter maintain a record of Accounts, keeping correct and accurate records with respect to Account Debtors, including without limitation, records supporting the reports furnished to the Lender pursuant to subsection 3.1 hereof, all of which records shall be available during the Borrower's usual business hours at the request of any of the Lender's officers, employees or agents. The Borrower shall cooperate fully with the Lender and its agents who shall have the right at any time or times during the Borrower's usual business hours to inspect the Accounts and the records with respect thereto. The Borrower shall conduct a review of its bad debt reserves and collection histories at least once each year and promptly following such review shall supply the Lender with a report in a form and with such specificity as may be reasonably satisfactory to the Lender concerning such review of the Accounts.

3.8 Notice to Account Debtors. The Lender may, in its sole discretion, at any time or times following the occurrence of an Event of Default, and without prior notice to the Borrower,

notify any or all Account Debtors that the Accounts constituting Collateral have been assigned to the Lender and that the Lender has a security interest therein and the Lender may direct any or all Account Debtors to make all payments upon the Accounts constituting Collateral directly to the Lender. The Lender shall furnish the Borrower with a copy of any such notice.

3.9 Safekeeping of Inventory and Inventory Covenants. The Lender shall not be responsible for: (i) the safekeeping of the Inventory; (ii) any loss or damage to the Inventory; (iii) any diminution in the value of the Inventory; or (iv) any act or default of any carrier, lessee, warehouseman, bailee, forwarding agency or any other Person. As between the Borrower and the Lender, all risk of loss, damage, destruction or diminution in value of the Inventory shall be borne by the Borrower.

3.10 Inventory Warranties. The Borrower warrants and represents that the Inventory is in good condition and repair and is currently used or usable in the Borrower's business except for ordinary wear and tear and Casualties occurring in the ordinary course of business prior to the date hereof.

3.11 Rolling Stock Records. The Borrower shall at all times hereafter keep complete and accurate records describing in the aggregate the kind, type and age of the Rolling Stock, whether owned or leased, and the Borrower's cost therefor and accumulated depreciation thereon and acquisitions, retirements, sales, or other dispositions thereof, all of which records shall be available during the Borrower's usual business hours on demand to any of the Lender's officers, employees or agents.

3.12 Maintenance of Equipment and Inventory. Except for ordinary wear and tear, depreciation and obsolescence and Casualties the Borrower shall, to the extent commercially reasonable, keep and maintain the Rolling Stock and the Equipment and other Inventory material to the Borrower's business in good operating condition and repair and shall make all necessary replacements thereof and renewals thereto so that the value and operating efficiency thereof shall at all times be maintained and preserved. The Borrower shall not permit items of Equipment which are material individually or in the aggregate to the Borrower's business or any item of Inventory to become a fixture to real estate or an accession to other personal property not constituting Collateral; provided, however, that the foregoing shall not be deemed to prohibit the Borrower from attaching Inventory constituting replacement parts to items of Excluded Rolling Stock in the ordinary course of the Borrower's business consistent with past practices. To the extent within the Borrower's control, the Borrower shall not permit the Equipment or Inventory to be operated or maintained in violation of any applicable law, statute, rule or regulation. In addition, with respect to all items of Rolling Stock leased to others, the Borrower shall keep, maintain, repair and replace such leased Rolling Stock in accordance with the terms of the lease relating thereto, subject to subsection 8.9 hereof.

3.13 Intellectual Property. The Borrower shall maintain ownership of or rights to use such Intellectual Property, including software, as may be reasonably necessary to conduct its business as heretofore conducted in all material respects.

4. CONDITIONS TO ADVANCES.

4.1 Conditions to Advances. The making of the initial advance under the Revolving Loan and the funding of the Term Loan and each subsequent advance under the Revolving Loan which causes the outstanding balance of the Revolving Loan to exceed the greater of (i) the average daily closing balance of the Revolving Loan during the preceding calendar month or (ii) the closing balance of the Revolving Loan on the day immediately preceding the day of such advance, shall be conditioned upon the matters set forth in this subsection 4.1 (except that no subsequent advances will be subject to the condition contained in clause (i) of subsection (a) below).

All other subsequent advances under the Revolving Loan shall be conditioned upon the matters set forth in clause (ii) of subsection (a) below, subsection (b) below and clause (i) of subsection (d) below.

Failure to meet any condition set forth in this Section 4 shall not, in and of itself, be deemed to constitute a Default or an Event of Default if such failure would not otherwise constitute a Default or an Event of Default under any other Section of this Agreement.

(a) Warranties and Representations. (i) All of the warranties and representations of the Borrower contained herein, and of the Guarantor contained in the Guaranty, shall be true and correct in all material respects on and as of the date hereof.

(ii) The warranties and representations of the Borrower contained in clause (i) of subsection 6.1 below and in subsections 6.11 and 6.22 below shall be true and correct in all material respects on and as of the date of such advance as if made on such date, and each request for an advance shall constitute an affirmation by the Borrower that such warranties and representations are then true and correct.

(b) Borrower's Request. The Lender shall have received, on the day an advance is to be made, in time for the Lender to make such advance, (i) a telephonic request from the Borrower for an advance in a specific amount, including, with respect to the initial advances hereunder, the amount of the advances under the Term Loan and the Revolving Loan, (ii) all reports required to have been furnished by the Borrower to the Lender prior to the day of such advance pursuant to subsection 3.1 hereof, and (iii) copies of all other documents required to have been delivered to the Lender hereunder.

(c) Financial Condition. As determined by the Lender in its sole reasonable discretion, no material adverse change in the financial condition or operations of the Borrower or the Guarantor shall have occurred at any time or times subsequent to the most recent annual financial statements provided pursuant to subsection 7.1(iii) hereof.

(d) No Default. (i) As determined by the Lender, no Event of Default shall have occurred and be continuing or will result from such advance.

(ii) As determined by the Lender, no Default or Event of Default shall have occurred and be continuing or will result from such advance.

(e) No Litigation; Approvals. (i) No litigation, investigation or proceeding before any court, governmental agency or arbitrator shall be pending or threatened against the Borrower or the Guarantor or any Affiliate thereof or any officer, director, or executive (as applicable) of the Borrower or the Guarantor or any Affiliate thereof (A) in connection with this Agreement, the other Financing Agreements and the Restructuring Agreements which, in the sole reasonable opinion of the Lender, is deemed material or (B) which, if adversely determined, would, in the sole reasonable opinion of the Lender, have a material adverse effect on the financial condition, business, or results of operations of the Borrower or the Guarantor; and (ii) no injunction, writ, restraining order or other order of any nature materially adverse to the Borrower or the Guarantor shall have been issued or threatened by any court or governmental agency.

(f) Contracts. No breach by the Borrower shall have occurred under any agreement, document or instrument (other than an agreement, document or instrument evidencing Indebtedness), whether now or hereafter existing between the Borrower and any other Person, if such breach has continued more than thirty (30) days after such breach first occurred and would, in the sole reasonable opinion of the Lender, have a material adverse effect on the financial condition, business or results of operations of the Borrower.

4.2 Conditions to Initial Advance and Funding of the Term Loan. The making of the initial advance of funds under the Revolving Loan and funding of the Term Loan shall be conditioned upon the delivery of the following documents to the Lender, in form and substance satisfactory to the Lender, and the consummation of all of the transactions or the satisfaction of each condition contemplated by each such document.

(a) Agreement; Notes. Two duly executed copies of this Agreement and one duly executed copy of the Revolving Loan Note and Term Note conforming to the requirements hereof.

(b) Legal Opinion. The legal opinion of Borrower's counsel reasonably satisfactory to the Lender.

(c) Trustee's Certificate. A certificate executed by the Trustee (i) certifying that it has transferred to the Borrower all of its right, title and interest in the Rolling Stock and other Inventory held in the Amended ETC Series Trusts to which they were subject, and (ii) to the effect that the Trustee has not caused the imposition of any lien, claim, charge or encumbrance upon any of such Rolling Stock or other Inventory.

(d) Guaranty. Two duly executed copies of the Guaranty.

(e) UCC. Evidence of the proper filing of UCC financing statements perfecting security interests in favor of the Lender in the Collateral.

(f) Officers' Certificate. A certificate executed by the chief executive officer or chief financial officer of the Borrower and of the Guarantor stating that (i) no Default or Event of Default has occurred and is continuing; (ii) no material adverse change in the financial condition or operations of the Borrower or the Guarantor has occurred since June 30, 1986; (iii) the representations and warranties of the Borrower contained in subsections 6.14 and 6.27 hereof are true and correct as of the date hereof.

(g) [Deliberately Omitted]

(h) Motor Vehicles. Title certificates for each item of Inventory constituting a titled vehicle.

(i) Insurance and Endorsements. Except as otherwise permitted under subsection 7.6, copies of all policies of insurance required hereby together with loss payable endorsements (to the extent of the Lender's interest) on the Lender's standard form, duly executed, and evidence of the payment of current premiums therefor.

(j) Initial Reports and Other Exhibits. Copies of the initial reports to be delivered by the Borrower to the Lender pursuant to Section 3.1 hereof, the initial Projections, and all financial statements and other Exhibits required hereby.

(k) Closing Fee. The Closing Fee in accordance with subsection 2.11 hereof.

(l) Charter and Bylaws. A copy of the Articles of Incorporation of each of the Borrower and the Guarantor, certified by the Secretary of State of Delaware as of a date not more than 20 days prior to the date hereof, and a copy of the bylaws of each of the Borrower and the Guarantor and any amendments thereto

certified by the Secretary of the Borrower or the Guarantor, as the case may be.

(m) Good Standing Certificates. A good standing certificate for each of the Borrower and the Guarantor in the jurisdiction of its respective incorporation and, with respect to the Borrower only, a good standing certificate with respect to Illinois and California.

(n) Board Resolutions. Certified copies of resolutions of the board of directors of the Guarantor and the Borrower authorizing the execution and delivery of and the consummation of the transactions contemplated by: this Agreement, the Guaranty, the other Financing Agreements, the Restructuring Agreements and all other documents or instruments to be executed and delivered in conjunction herewith and therewith.

(o) Incumbency Certificates. Incumbency certificates with respect to the officers of the Guarantor and the Borrower executing the documents referred to in item (n) above.

(p) [Deliberately Omitted]

(q) Leasehold Interests. Assignments of leases with respect to Rolling Stock.

(r) Guarantor's Counsel's Opinion. A legal opinion of counsel for the Guarantor reasonably satisfactory to the Lender.

(s) Accountants' Letter. A letter authorizing Borrower's independent certified public accountants to communicate with the Lender in accordance with subsection 7.1 hereof.

(t) Power of Attorney. A power of attorney in favor of the Lender with respect to the matters set forth in Section 5 and in subsections 3.6 and 7.6 hereof in form and substance satisfactory to the Lender.

(u) Appointment of Agent for Service. An appointment of CT Corporation System as the Borrower's agent for service of process.

(v) Letter of Direction. A letter of direction from the Borrower with respect to the disbursement of the proceeds of the initial advance under the Revolving and the funding of the Term Loan hereunder.

(w) Consummation of Restructuring. The holders of the Amended Trust Certificates shall have approved the transactions contemplated by the Restructuring Agreements; all conditions precedent to the consummation of such transactions shall have been

satisfied, and such transactions shall have been consummated and all of the Amended ETC Series Trusts shall have been terminated and evidence thereof, together with releases executed by the Trustee, shall be filed with the Interstate Commercial Commission on the date hereof, all upon the terms and conditions set forth in the Restructuring Agreements; the title to all Rolling Stock leased by the Borrower pursuant to the terminated Amended ETC Series Trusts shall have been transferred to the Borrower in connection with such termination, free and clear of all liens, claims, charges, security interests and encumbrances pursuant to appropriate release and transfer documents satisfactory to the Lender and its counsel.

(x) Funding Agreement. The Funding Agreement executed by the Guarantor in favor of the Lender (the "Funding Agreement").

(y) [Deliberately Omitted]

(z) [Deliberately Omitted]

(aa) Restructuring Agreements. A true and complete copy of each Restructuring Agreement.

(bb) [Deliberately Omitted]

(cc) Security Agreement. The Borrower shall have executed and delivered the Security Agreement, and the Security Agreement shall have been filed with the Interstate Commerce Commission and shall be effective to create in favor of the Lender a valid and perfected first security interest in the Rolling Stock.

(dd) Canadian Filings. The Borrower shall have executed such security agreements and mortgages covering Collateral located in Canada from time to time as shall be satisfactory to the Lender and its counsel, and the Lender shall have received evidence of such filings thereof, including, without limitation, with the Registrar General of Canada, and publication of notice thereof in the Canada Gazette as shall be required by the Railway Act (Canada) or otherwise to protect Lender's security interest therein to the fullest extent permitted under Canadian law.

(ee) [Deliberately Omitted.]

(ff) Subordination Agreement. The Guarantor shall have executed and delivered the Subordination Agreement.

5. COLLATERAL.

5.1 Security Interest. All of the Borrower's Obligations constitute one loan secured by the Lender's security interests in the Collateral and by all other security interests, liens, mortgages, claims and encumbrances now or from time to time hereafter granted by the Borrower to the Lender. To secure payment and performance of the Obligations, the Borrower hereby sells, assigns, conveys, mortgages, pledges, hypothecates and

transfers and hereby grants to the Lender a right of setoff against and a continuing lien upon and security interest in and to the following property and interests in property, whether now owned or hereafter acquired by the Borrower and wheresoever located: (i) Accounts; (ii) General Intangibles; (iii) Inventory (including without limitation Rolling Stock); (iv) Equipment; (v) Intellectual Property; (vi) all of the Borrower's right, title and interest in and to all deposit accounts (general or special) with any financial institution with which the Borrower maintains deposits; (vii) all of the Borrower's now owned or hereafter acquired monies, and any and all other property and interests in property now owned or hereafter acquired by the Borrower and now or hereafter coming into the actual possession, custody or control of the Lender or any agent of the Lender; (viii) all insurance policies relating to any of the foregoing, including without limitation business interruption insurance, if any; (ix) all of the Borrower's books and records relating to any of the foregoing; (x) all accessions and additions to, substitutions for, and replacements and products of any of the foregoing; and (xi) all cash collections from, and all other cash and non-cash proceeds of, any of the foregoing; provided, however, that, except as otherwise set forth in Exhibit 5.1 hereto, no grant of any security interest hereunder is intended and the Borrower does not convey or grant to the Lender any right, title or interest in or to (1) the Borrower's interest in any conditional sales agreement or capitalized lease relating to the Excluded Rolling Stock, (2) the Borrower's interest in any operating lease to the extent such lease relates to Excluded Rolling Stock, (3) any Account or General Intangible to the extent such Account or General Intangible relates to an item of Excluded Rolling Stock identified on Exhibit 1.1B hereto or to any hereafter acquired item of Excluded Rolling Stock with respect to which the Borrower is prohibited from granting to the Lender a security interest in such Account or General Intangible under the terms of the Borrower's financing with respect to such item of Excluded Rolling Stock, (4) capital stock in the Subsidiaries, (5) property in the possession of the Borrower which is not owned by the Borrower, and (6) Excluded Rolling Stock.

5.2 Preservation of Collateral and Perfection of Security Interests Therein. Prior to the execution of this Agreement, the Borrower shall have executed and delivered to the Lender, and at any time or times hereafter at the request of the Lender, the Borrower shall execute and deliver, all financing statements, security agreements, amendments thereto, or other documents (and pay the cost of filing or recording the same in all public offices deemed necessary by the Lender), as the Lender may request, in a form satisfactory to the Lender, to perfect and maintain the security interests in the Collateral granted by the Borrower to the Lender or to otherwise protect and preserve the Collateral and the Lender's security interests therein or to enforce the Lender's security interests in the Collateral. Should the Borrower fail to do so, the Lender is authorized to sign any such financing statements or other documents as the Borrower's agent. The Borrower

further agrees that a carbon, photocopy or other reproduction of this Agreement or of a financing statement is sufficient as a financing statement. The Borrower shall make appropriate entries upon its books and records disclosing the Lender's liens and security interests in the Collateral. The Borrower shall not remark any item of Rolling Stock with new or different identification numbers or otherwise alter any item of Rolling Stock in a manner such that the description of such item of Rolling Stock contained in the Security Agreement, any lease assignment or any other financing statement or security agreement would become inaccurate, except for remarking performed in the ordinary and regular course of the Borrower's business; provided that with respect to remarking performed in the ordinary and regular course of the Borrower's business, the Borrower shall identify to the Lender in the format of the Borrower's regular records those items of Rolling Stock which have been remarked together with the new identification numbers for such items of Rolling Stock on a monthly basis upon the Borrower's obtaining knowledge of the foregoing, but in no event later than the date which is substantially contemporaneous with the completion of the remarking of any distinct group of Rolling Stock, and the Borrower shall cause the Security Agreement, any lease assignment and any other financing statement or security agreement affected thereby to be amended to reflect such remarking at such times as may be reasonably requested by the Lender.

5.3 After-Acquired Rolling Stock and Related Collateral. If the Borrower shall acquire Rolling Stock after the date hereof, which Rolling Stock is not subject to any Permitted Lien under clause (iv) of subsection 8.1 hereof, including, without limitation, the Excluded Rolling Stock listed on Exhibit 1.1B hereto, the Borrower shall execute and deliver any and all documents, including amendments to the Security Agreement, necessary or appropriate to grant to the Lender a first and prior perfected security in such Rolling Stock and all related operating leases, Accounts and other related Collateral.

5.4 Release of Security Interests. If at any time hereafter, the Borrower shall (a) sell or otherwise dispose of any asset in accordance with subsection 7.13 or (b) purchase any asset subject to a Permitted Lien under clause (iv) of subsection 8.1 hereof, the Lender shall release its interest, if any, in such asset (and, if such asset is Excluded Rolling Stock, its interest in any Account or General Intangible to the extent such Account or General Intangible relates to such item of Excluded Rolling Stock and the Borrower is prohibited from granting to the Lender a security interest in such Account or General Intangible under the terms of the Borrower's financing with respect to such Excluded Rolling Stock) and the Lender shall, at the Borrower's expense, execute all necessary or appropriate instruments or documents or shall file any necessary amendments or supplements to such of the Financing Agreements as the Borrower may reasonably request so as to permit the Borrower to sell or otherwise dispose of such asset or grant and convey the security interests contemplated by this

subsection 5.3 to such other lender, including without limitation amendments or supplements required if the Borrower shall remark any item of Excluded Rolling Stock with a different identification number. Upon full and final payment of the Obligations, the Lender shall release any and all security interests in the Collateral.

5.5 Titled Vehicles. The Borrower shall deliver to the Lender title certificates with respect to each item of Inventory constituting a titled vehicle in accordance with subsection 4.2(h) and with respect to each item of Inventory constituting a titled vehicle hereafter acquired by the Borrower. The Lender shall hold such title certificates and shall deliver them to the Borrower upon reasonable prior notice for disposition in accordance with subsection 7.13 hereof. Upon the occurrence of an Event of Default, the Lender may, at its option, note its security interest in the vehicles represented by such title certificates and proceed to file the same in the appropriate filing office(s).

6. WARRANTIES.

The Borrower represents and warrants that as of the date of the execution of this Agreement and, with respect to advances subject to clause (ii) of subsection 4.1(a) hereof, as of the time of each such advance (but only with respect to the warranties contained in clause (i) of subsection 6.1 below and in subsections 6.11 and 6.22 below):

6.1 Existence; Qualification. (i) The Borrower and each Restricted Subsidiary is a corporation duly organized, validly existing and in good standing in the state of its respective incorporation.

(ii) The Borrower and each Restricted Subsidiary is qualified to transact business as a foreign corporation in, and is in good standing in each state in which the failure to so qualify would have a material adverse effect on its financial condition, business or results of operations. All jurisdictions in which the Borrower is qualified to do business as a Foreign corporation are listed on Exhibit 6.1 hereto.

6.2 Authority. The Borrower has full power, authority and legal right to enter into this Agreement, the other Financing Agreements and the Restructuring Agreements and the Guarantor has full power, authority and legal right to enter into the Guaranty. The execution and delivery by the Guarantor of the Guaranty and by the Borrower of this Agreement, the other Financing Agreements and the Restructuring Agreements: (i) have been duly authorized by all necessary action on the part of the Borrower and the Guarantor; (ii) are not in contravention of the terms of the Borrower's or the Guarantor's Certificate of Incorporation or Bylaws or of any indenture, agreement or undertaking to which the Borrower or the Guarantor is a party or by which the Borrower or the Guarantor or any of their respective properties are bound; (iii) do not, as of

the date of execution hereof, require any governmental consent, registration or approval hereto; (iv) do not contravene any contractual or governmental restriction or law, rule or regulation to which the Borrower or the Guarantor or any of the Borrower's or the Guarantor's property may be subject; and (v) will not, except as contemplated herein, result in the imposition of any lien, charge, security interest or encumbrance upon any property of the Borrower or any Restricted Subsidiary or the Guarantor under any existing indenture, mortgage, deed of trust, loan or credit agreement or other material agreement or instrument to which the Borrower or the Guarantor is a party or by which the Borrower or the Guarantor or any of their respective properties may be bound or affected. The Borrower has the full corporate authority to own or lease and operate its property and to conduct the business in which it is currently engaged and in which it proposes to engage.

6.3 Binding Effect. This Agreement, the Restructuring Agreements and all of the other Financing Agreements have been duly executed and delivered by the Borrower, are the legal, valid and binding obligations of the Borrower and are enforceable against the Borrower in accordance with their terms. The Guaranty has been duly executed and delivered by the Guarantor, is the legal, valid and binding obligation of the Guarantor and is enforceable against the Guarantor in accordance with its terms.

6.4 Financial Data and Corporate Organization. (a) The Borrower has furnished to the Lender the pro forma balance sheet (the "Pro Forma") of the Borrower and the Restricted Subsidiaries on a consolidated basis dated as of the most recent month ended prior to the date hereof and a copy of which is attached hereto as Exhibit 6.4-1. The Pro Forma was prepared in good faith and fairly represents the Borrower's assets and liabilities in accordance with Generally Accepted Accounting Principles, consistently applied, taking into account the transactions contemplated by the Restructuring Agreements and this Agreement. There has been no material adverse change in the financial condition of the Borrower since the date of the Pro Forma.

(b) The Borrower has also furnished to the Lender initial Projections for the Borrower dated as of the date hereof and attached hereto as Exhibit 6.4-2, containing the information required by clause (iv) of subsection 7.1 hereof. The initial Projections attached hereto as Exhibit 6.4-2 have been prepared by the chief financial executive of the Borrower on the basis of the assumptions set forth therein and do represent the best available good faith estimate of the Borrower's management regarding the course of the Borrower's business for the periods covered thereby. The assumptions set forth in the initial Projections are reasonable and realistic based on then current economic conditions. The Projections have been prepared on a basis consistent with Generally Accepted Accounting Principles.

(c) The issued and outstanding capital stock of the Borrower as of the date of the first advance hereunder will be as set forth in the Pro Forma. All of such capital stock will be duly authorized and validly issued and will be fully paid and nonassessable and subject to no security interests, liens, pledges, charges, claims, encumbrances or repurchase agreements except as set forth on Exhibit 6.4(c) hereto.

6.5 Collateral. (a) Attached hereto as Exhibit 6.5-A is a list of railroad cars and trailers that were owned by the Borrower or held subject to the Equipment Trust Agreement (collectively, the "Presently Owned Rolling Stock") as of July 30, 1986. There have been no material increases or decreases in the numbers of Presently Owned Rolling Stock since July 30, 1986. The Borrower has good and merchantable title to the Presently Owned Rolling Stock free and clear of all security interests, liens, pledges, and encumbrances, except nonmaterial encumbrances permitted in accordance with clauses (i) and (ii) of subsection 8.1, liens or security interests in favor of the Lender and the operating leases and subleases listed on Schedule 6.5-B hereto.

(b) The Borrower has no ownership interest in railroad cars or trailers or other rolling stock other than the Presently Owned Rolling Stock set forth in Schedule 6.5-A hereto or the Excluded Rolling Stock (which includes the railcars constituting Excluded Rolling Stock listed in Exhibit 1.1B hereto), all of which Excluded Rolling Stock is subject to purchase money, leveraged lease or other similar financing arrangements with other lenders.

(c) Attached hereto as Schedule 6.5-B is a list of all operating leases or subleases to which the Rolling Stock is subject (the "Leases"). All of the Leases have been assigned to the Lender to the extent that such Leases relate to Presently Owned Rolling Stock, except as identified on Schedule 6.5-B. There are no operating leases or subleases with respect to the Presently Owned Rolling Stock which have not been assigned to the Lender, except as identified on Schedule 6.5-B. The Borrower's interest in the Leases is free and clear of all security interests, liens, pledges, charges, claims, encumbrances or assignments, except the assignments thereof to the Lender and partial assignments thereof to other creditors to the extent that Excluded Rolling Stock in which such other creditors have an interest is subject to any such Lease.

(d) All of the Borrower's Accounts arising from the sale or lease of Presently Owned Rolling Stock or the rendering of services by the Borrower are owned by the Borrower free and clear of all security interests, liens, pledges, encumbrances or assignments ("Included Accounts"), except that Accounts arising from the sale or lease of Excluded Rolling Stock are or may be subject to security interests (whether perfected or unperfected) in favor of creditors who hold security interests in or title to the Excluded Rolling Stock ("Excluded Accounts"). Other than the Included

Accounts and Excluded Accounts, the Borrower has no material Accounts.

(e) All of the Collateral (other than the Presently Owned Rolling Stock, the Leases and Accounts treated in the preceding paragraphs of this subsection 6.5) is owned by the Borrower free and clear of all recorded security interests, liens or encumbrances, based on the search results attached hereto as Schedule 6.5-C.

(f) The Indebtedness listed on Exhibit 6.15 is secured only by assets other than Collateral and the creditors' recourse with respect thereto is as set forth on Exhibit 6.15.

6.6 Solvency. The Borrower will be Solvent after giving effect to the transactions contemplated by the Restructuring Agreements and this Agreement.

6.7 Places of Business. As of the date hereof, the principal place of business and chief executive office of the Borrower is located at 55 Francisco Street, San Francisco, California 94133. As of the date hereof, the books and records of the Borrower and all chattel paper and all records of account are located at the principal place of business and chief executive office of the Borrower. As of the date hereof, the Borrower conducts its business only from the locations listed on Exhibit 6.7 hereto, and the Collateral, other than Rolling Stock, is located only at the offices listed on Exhibit 6.7 hereto.

6.8 Other Names. Since September 1983, the business conducted by the Borrower has not been conducted under any corporate, trade or fictitious name other than those names listed on Exhibit 6.8 hereto.

6.9 Tax Obligations. The Borrower has filed complete and correct federal, state and local tax reports and returns required by and prepared in accordance with any law or regulation, except for extensions duly obtained, and has either duly paid all taxes, duties and charges owed by it, or made adequate provision for the payment thereof. There are no material unresolved questions or claims concerning any tax liability of the Borrower.

6.10 Indebtedness and Liabilities. The Borrower has no Indebtedness except as set forth on Exhibit 6.10-1 hereto. Except for such Indebtedness listed on Exhibit 6.10-1, Indebtedness incurred in connection with the Restructuring and listed on Exhibit 6.10-2, and liabilities for trade payables and accrued expenses reflected on the Pro Forma attached hereto as Exhibit 6.4-1, the Borrower has no Liabilities.

6.11 Use of Proceeds and Margin Security. The Borrower shall use the proceeds of the initial advance under the Revolving Loan and the funding of the Term Loan solely to consummate the transactions contemplated by the Restructuring Agreements, and

6.16 Employee Controversies. There are no strikes, work stoppages or controversies pending or, to the best of the Borrower's knowledge after diligent inquiry, threatened, between the Borrower and any of its employees, other than employee grievances arising in the ordinary course of business which are not, in the aggregate, material to the financial condition, results of operations or business of the Borrower.

6.17 Compliance with Laws and Regulations. The execution and delivery by the Borrower of this Agreement and all of the other Financing Agreements and the performance of the Borrower's obligations hereunder and thereunder are not in contravention of any laws, orders, regulations or ordinances. The Borrower is in compliance with all laws, orders, regulations and ordinances of all federal, foreign, state and local governmental authorities relating to the business operations and the assets of the Borrower, except for laws, orders, regulations and ordinances the violation of which would not, in the aggregate, have a material adverse effect on the Borrower's financial condition, results of operations or business.

6.18 Patents, Trademarks and Licenses. There are no patents, patent applications, copyrights, service marks, trademarks, tradenames or licenses with respect thereto owned or used by the Borrower which are material to the conduct of its business.

6.19 ERISA. The Borrower has no obligations with respect to any Plans except as disclosed on Exhibit 6.19 hereto. No events, including, without limitation, any "Reportable Event" or "Prohibited Transaction," as those terms are defined under ERISA, have occurred in connection with any Plan of the Borrower which might constitute grounds for the termination of any such Plan by the Pension Benefit Guaranty Corporation or for the appointment by any United States District Court of a trustee to administer any such Plan and which might result in a material liability to the Borrower. All of the Borrower's Plans meet the minimum funding standards of Section 302 of ERISA. The Borrower is not subject to or bound to make contributions to any "multiemployer plan" as such term is defined in Section 4001(a)(3) of ERISA.

6.20 Adverse Contracts. The Borrower is not a party to, nor is the Borrower or any of its property subject to or bound by, any forward purchase contract or futures contract or covenant not to compete, or other similar agreement which has a material adverse effect on its financial condition, results of operations or business.

6.21 Approvals. There are no consents, authorizations, approvals or orders of any court or governmental agency or authority required under the terms of any orders relating to the reorganization of the Guarantor or the Borrower in order to consummate the transactions contemplated by the Restructuring Agreements, this Agreement or the other Financing Agreements.

6.22 Investment Company Act. The Borrower is not an "investment company" or a company "controlled" by an investment company within the meaning of the Investment Company Act of 1940, as amended.

6.23 Broker's Fees. Neither the Lender nor the Borrower is or will become obligated to any Person with respect to any finder's or brokerage or similar fee or commission in connection with the transactions contemplated hereby by virtue of any act or statement by the Borrower, the Guarantor or any Person acting on behalf of either of them.

6.24 Licenses and Permits. The Borrower has been and is current and in good standing with respect to all governmental approvals, permits, certificates, licenses, inspections, consents and franchises necessary to continue to conduct its business and to own or lease and operate its properties in the same manner in all material respects as heretofore conducted, owned, leased or operated by it.

6.25 Bankruptcy. Neither the Borrower, the Guarantor, nor any of their respective assets is subject to the jurisdiction of any federal bankruptcy court.

6.26 Environmental Compliance. There are no material claims, investigations, litigation, administrative proceedings, whether pending or threatened, or judgments or orders against the Borrower relating to any hazardous substances, hazardous wastes, discharges, emissions or other forms of pollution (collectively "EPA Matters") relating in any way to any facility owned or used by the Borrower or the business of the Borrower. Except as set forth in Exhibit 6.26 hereto, the Borrower has no liability for clean-up, compliance or required Capital Expenditures in connection with any EPA Matter arising prior to the date hereof.

6.27 Full Disclosure. This Agreement, the financial statements delivered in connection herewith and any other document delivered or to be delivered by the Borrower, do not and will not contain any untrue statement of a material fact or omit a material fact necessary to make the statements contained therein or herein, in light of the circumstances under which they were made, not misleading. There is no material fact which the Borrower has not disclosed to the Lender in writing which materially and adversely affects or, so far as the Borrower can now foresee, will materially and adversely affect the assets, business, prospects, profits, or condition (financial or otherwise) of the Borrower, the rights of the Lender or the ability of the Borrower to perform this Agreement.

6.28 Survival of Warranties. All representations and warranties contained in this Agreement or any of the other Financing Agreements shall survive the execution and delivery of this Agreement and the termination hereof.

shall be in scope and substance satisfactory to the Lender; (iv) as soon as practicable and in any event within fifteen (15) days after the end of each fiscal year, Projections prepared in the same manner as the Projections attached hereto as Exhibit 6.4-2, including a projected balance sheet for the forthcoming fiscal year, month-by-month; projected cash flow statements for the forthcoming fiscal year, month-by-month; projected profit and loss statements for the forthcoming fiscal year, month-by-month; the Borrower shall also deliver to the Lender such other projections with respect to the Borrower as may be prepared for internal distribution concurrently with such distribution; (v) as soon as practicable and in any event within ten (10) days of delivery to the Borrower, a copy of any letter issued by the Borrower's independent public accountants or other management consultant with respect to the Borrower's financial or accounting systems or controls, including all so-called "management letters"; (vi) as soon as practicable (but in any event not more than ten (10) days after the chief executive officer or chief financial officer of the Borrower obtains knowledge of the occurrence of a Default or an Event of Default) notice of any and all Defaults or Events of Default hereunder; and (vii) with reasonable promptness, such other business or financial data as the Lender may reasonably request.

All financial statements delivered to the Lender pursuant to the requirements of this subsection (except where otherwise expressly indicated) shall be prepared in accordance with Generally Accepted Accounting Principles consistently applied. Such financial statements shall include the Assets, Liabilities, Unrestricted Cash Flow and results of operations, on a consolidated basis, of those Subsidiaries which constitute Restricted Subsidiaries. Together with each delivery of financial statements required by subsections 7.1(i) and (iii) above, the Borrower shall deliver to the Lender an officer's certificate stating that there exists no Default or Event of Default, or, if any Default or Event of Default exists, specifying the nature thereof, the period of existence thereof and what action the Borrower proposes to take with respect thereto. Together with each delivery of financial statements required by subsection 7.1(iii) above, the Borrower shall deliver to the Lender a certificate of the accountants who performed the audit in connection with such statements stating that in making the audit necessary to the issuance of a report on such financial statements, they have obtained no knowledge of any Default or Event of Default, or, if such accountants have obtained knowledge of a Default or Event of Default, specifying the nature and period of existence thereof. Such accountants shall not be liable by reason of any failure to obtain knowledge of any Default or Event of Default which would not be disclosed in the ordinary course of an audit.

The Lender shall use its best efforts to keep such information, and all information acquired as a result of any inspection conducted in accordance with subsection 7.2 below, confidential, provided that the Lender may communicate (a) to any

other Person in accordance with the customary practices of commercial lenders relating to routine trade inquiries limited, general information regarding the Borrower's history of credit worthiness as experienced by the Lender, (b) to any regulatory authority having jurisdiction over the Lender, generalized statistics including statistics reflecting the loans to the Borrower in accordance with regulatory requirements applicable to the Lender, (c) such information as is necessary to enable a Participant to make an informed credit decision to any other Person in connection with Lender's sale of any participations in the Obligations, provided that such Participant shall have committed to maintain any such information in confidence, (d) to any other Person in connection with the exercise of the Lender's rights hereunder or under any of the other Financing Agreements, such information as is necessary to effectively perfect or enforce such rights or (e) to the Guarantor. The Borrower authorizes the Lender to discuss the financial condition of the Borrower with the Borrower's independent public accountants and agrees that such discussion or communication shall be without liability to either the Lender or the Borrower's independent public accountants. The Borrower shall deliver a letter addressed to such accountants authorizing them to comply with the provisions of this subsection 7.1.

All Projections hereafter delivered in accordance with clause (iv) of subsection 7.1 shall be prepared by the chief financial executive of the Borrower on the basis of the assumptions set forth therein and shall represent the best available good faith estimate of the Borrower's management regarding the course of the Borrower's business for the periods covered thereby. The assumptions set forth in the future Projections delivered hereafter shall be reasonable and realistic based on then current economic conditions. All future Projections will be prepared on a basis consistent with Generally Accepted Accounting Principles.

7.2 Inspection. The Lender, or any Person designated by the Lender in writing, shall have the right, from time to time hereafter, to call at the Borrower's place or places of business (or any other place where the Collateral or any information relating thereto is kept or located) during reasonable business hours, (and in the absence of an Event of Default following reasonable prior notice to the Borrower) and, without hindrance or delay, (i) to inspect, audit, check and make copies of and extracts from the Borrower's books, records, journals, orders, receipts and any correspondence and other data relating to the Borrower's business or to any transactions between the parties hereto, (ii) to make such verification concerning the Collateral as the Lender may consider reasonable under the circumstances, and (iii) to discuss the affairs, finances and business of the Borrower with any officers, employees or directors of the Borrower.

7.3 Conduct of Business; Compliance With Laws and Agreements. The Borrower shall maintain its corporate existence. shall maintain in full force and effect all licenses, bonds,

franchises, leases, patents, contracts and other rights necessary to the profitable conduct of its business and shall comply with all applicable laws, rules, regulations and orders of any federal, state or local governmental authority, except for such licenses, bonds, franchises, leases, patents, contracts and other rights, laws, rules and regulations the lapse or violation of which would not, in the aggregate, have a material adverse effect on the Borrower's financial condition, results of operations or business.

7.4 Claims and Taxes. (a) The Borrower agrees to indemnify and hold the Lender harmless from and against any and all claims, demands, obligations, losses, damages, penalties, costs, and expenses (including reasonable attorneys' fees) incurred by or against the Lender relating to or in any way arising out of the possession, use, operation or control of any of the Borrower's assets. The Borrower will file all tax and information returns and reports required by and prepared in accordance with applicable law and shall pay or cause to be paid all license fees, bonding premiums and related taxes and charges, and shall pay or cause to be paid all real and personal property taxes, assessments and charges and franchise, income, unemployment, use, excise, old age benefit, withholding, sales and other taxes and other governmental charges assessed against the Borrower, or payable by the Borrower, at such times and in such manner as to prevent any penalty from accruing or any lien or charge from attaching to property of the Borrower, provided that the Borrower shall have the right to contest in good faith, by an appropriate proceeding promptly initiated and diligently conducted, the validity, amount or imposition of any such tax, assessment or charge, and upon such good faith contest to delay or refuse payment thereof (i) so long as no material lien is filed or recorded with respect thereto, and (ii) so long as such contest does not have a material adverse effect on the financial condition of the Borrower, the ability of the Borrower to pay or perform any of the Obligations, or the priority or value of the Lender's security interest in the Collateral.

(b) The Borrower shall notify the Lender promptly (and in no event later than ten (10) days) after becoming aware of the intent of the Internal Revenue Service (the "Service") to assert a deficiency with respect to it, and shall promptly (and in no event later than five (5) days after receipt) send the Lender copies of any notices of proposed deficiency and any notices of deficiency received from the Service. The Borrower shall take all reasonable actions necessary to contest such claimed deficiency, if in the opinion of the Borrower's tax counsel it is cost-effective to do so, and shall direct such counsel to consult with the Lender and to provide the Lender with periodic status reports and assessments of the legal merits of the contest.

7.5 Borrower's Liability Insurance. The Borrower shall maintain, at its expense, such public liability and third party property damage insurance, including, without limitation, insurance covering the Borrower's rolling stock subject to leases

pursuant to which the Borrower is required to maintain insurance, in such amounts and with such deductibles as are consistent with then current industry practices and in compliance with the requirements of any such leases.

7.6 Borrower's Property Insurance. The Borrower shall, at its expense or at the expense of lessees of its Rolling Stock, keep and maintain its assets insured against loss or damage by fire, theft, explosion, collision, and all other hazards and risks ordinarily insured against by other owners or users of such assets in similar businesses, including, without limitation, insurance covering the Borrower's Rolling Stock subject to leases pursuant to which the Borrower is required to maintain insurance, in such amounts and subject to such terms as are consistent with then current industry practices or such greater amounts which comply with any different requirements of any such lease. All such policies of insurance shall be in form and substance satisfactory to the Lender. The Borrower shall deliver to the Lender the original (or a certified) copy of each policy of insurance and evidence of payment of all premiums therefor. Such policies of insurance shall contain an endorsement, in substantially the form attached hereto as Exhibit 7.6 and made a part hereof, naming the Lender as loss payee and additional insured. The Borrower hereby directs all insurers under such policies of insurance to pay all proceeds of such insurance policies directly to the Lender to the extent of the Lender's interest in such proceeds; provided that in accordance with subsection 7.13 hereof, the Lender shall remit certain of those proceeds to the Borrower. The Borrower irrevocably makes, constitutes and appoints the Lender (and all officers, employees or agents designated by the Lender) as the Borrower's true and lawful attorney-in-fact for the purpose of making, settling and adjusting claims under all such policies of insurance, to the extent that any such claim relates to Collateral, endorsing the name of the Borrower on any check, draft, instrument or other item of payment received by the Borrower or the Lender pursuant to any such policies of insurance and for making all determinations and decisions with respect to such policies of insurance; provided that in accordance with subsection 7.13 hereof, the Lender shall remit certain of those proceeds to the Borrower, and if no Event of Default shall have occurred and be continuing, the Borrower shall have the right to make settle and adjust claims under such policies of insurance and make all determinations and decisions with respect thereto. If the Borrower, at any time or times hereafter, shall fail to obtain or maintain any of the policies of insurance required above or to pay any premium in whole or in part relating thereto, then the Lender, without waiving or releasing any Obligation, Default or Event of Default by the Borrower hereunder, may at any time or times thereafter (but shall be under no obligation to do so) obtain and maintain such policies of insurance and pay such premiums and take any other action with respect thereto which the Lender deems advisable. With respect to Rolling Stock covered by casualty insurance obtained by lessees thereof in accordance with operating leases currently in effect and naming the Borrower as an additional insured thereunder, the Borrower shall use its best efforts to deliver to the Lender endorsements and policies amended to name

the Lender as additional insured and loss payee in the same manner as the Borrower, which best efforts shall consist of mailings by the Borrower to each such lessee every other month during the eight months immediately following the date hereof requesting that such lessee name the Lender as an additional insured and loss payee. The Borrower shall cause the Lender to be named as additional insured and loss payee in the same manner as the Borrower in all policies and endorsements delivered pursuant to operating leases hereafter entered into under which the Borrower is named as an additional insured and the Borrower shall promptly deliver the same to the Lender. With respect to Rolling Stock covered by operating leases heretofore or hereafter entered into by the Borrower under which the lessee has self-insured against casualty losses, the Borrower shall promptly notify each such lessee in writing (with copies to the Lender) that the Lender is an additional insured and loss payee.

7.7 Pension Plans. The Borrower shall (i) keep in full force and effect any and all Plans which are presently in existence or may, from time to time, come into existence under ERISA, unless such Plans can be terminated without material liability to the Borrower in connection with such termination (as distinguished from any continuing funding obligation); (ii) make contributions to all of the Borrower's Plans in a timely manner and in a sufficient amount to comply with the requirements of ERISA, (iii) comply with all material requirements of ERISA which relate to such Plans so as to preclude the occurrence of any Reportable Event, Prohibited Transaction or material "accumulated funding deficiency" as such term is defined in ERISA in circumstances which might result in a material liability to the Borrower; and (iv) notify the Lender immediately upon receipt by the Borrower of any notice of the institution of any proceeding or other action which may result in the termination of any Plan and deliver to the Lender, promptly after the filing or receipt thereof, copies of all reports or notices which the Borrower files or receives under ERISA with or from the Service, the Pension Benefit Guaranty Corporation, or the U.S. Department of Labor.

7.8 Notice of Suit or Adverse Change in Business. The Borrower shall, as soon as possible, and in any event within five (5) days after the Borrower learns of the following, give written notice to the Lender of (i) any judgment or order being entered against the Borrower, the Guarantor or any Restricted Subsidiary, which in each case with respect to the Guarantor, has a material adverse effect upon the financial condition, results of operations or business of the Guarantor or the ability of the Guarantor to perform its obligations under the Guaranty and which, in each case with respect to any Restricted Subsidiary, has a material adverse effect upon the financial condition, results of operations or business of such Restricted Subsidiary, (ii) any litigation, claim, arbitration or governmental proceeding being instituted or threatened to be instituted against the Borrower, the Guarantor or any Restricted Subsidiary, which in each case with respect to the Guarantor, might have a material adverse effect upon the financial condition, results of operations or business of the Guarantor or the ability of the Guarantor to perform its obligations under the

Guaranty and which, in each case with respect to the Borrower or a Restricted Subsidiary, involves more than \$250,000 at issue or the seeking of injunctive relief with respect to any material part of the Borrower's or such Restricted Subsidiary's operations, or (iii) any material adverse change in the business, assets or condition, financial or otherwise, of the Borrower.

7.9 Taxes; Changes in Laws. In the event that any law, regulation, treaty or directive or any change therein or in the interpretation or application thereof or compliance by the Lender with any request or directive (whether or not having the force of law) from any governmental authority, agency or instrumentality:

(i) does or shall subject the Lender to any tax of any kind whatsoever with respect to this Agreement, the other Financing Agreements or any advance made hereunder, or change the basis of taxation of payments to the Lender of principal, commitment fees, interest or any other amount payable hereunder (except for net income taxes presently imposed by Federal, State or local taxing authorities with respect to interest or commitment fees payable hereunder or changes in the rate of tax on the overall net income of the Lender); or

(ii) does or shall impose on the Lender any other condition or increased cost, in connection with the transactions contemplated hereby or participations herein;

and the result of any of the foregoing is to increase the cost to the Lender of making or continuing any loan or advance hereunder or selling any participation therein, as the case may be, or to reduce any amount receivable thereunder then, in any such case, the Borrower shall promptly pay the Lender, upon its demand, any additional amounts necessary to compensate the Lender on an after-tax basis for such additional cost or reduced amount receivable which the Lender deems to be material as determined by the Lender with respect to this Agreement, the other Financing Agreements or the loans and advances made hereunder. If the Lender becomes entitled to claim any additional amounts pursuant to this subsection, it shall promptly notify the Borrower of the event by reason of which it has become so entitled. A certificate as to any additional amounts payable pursuant to the foregoing sentence submitted by the Lender to the Borrower shall be conclusive in the absence of manifest error. If the Lender shall demand payment under this subsection 7.9, the Borrower shall, for a period of ninety (90) days following such demand, have the option of prepaying all of the Obligations without premium or penalty, except that if the Term Loan shall then bear interest at a fixed rate of interest the Borrower shall pay to the Lender a prepayment premium computed in accordance with clause (b)(ii)(B) of subsection 2.8 hereof with respect to the outstanding balance of the Term Loan.

7.10 Net Worth. The Borrower and those Subsidiaries then constituting Restricted Subsidiaries, on a consolidated basis shall maintain a Tangible Net Worth at all times of not less than the difference between the Tangible Net Worth computed from the pro forma balance sheet included in Exhibit 6.4-1 hereto less

\$5,000,000; provided that for purposes of this subsection 7.10, the Subordinated Obligations shall constitute Liabilities for purposes of calculating Tangible Net Worth.

7.11 Liabilities to Net Worth. The Borrower and those Subsidiaries then constituting Restricted Subsidiaries, on a consolidated basis shall maintain a ratio of Liabilities to Tangible Net Worth at all times not in excess of 2.6:1; provided that for purposes of this subsection 7.11, Subordinated Debt, Preferred Stock, additional investments by the Guarantor and the Borrower pursuant to Section 2 of the Funding Agreement and additional Indebtedness of the Borrower to the Guarantor to the extent to which payments thereof are not required to be made prior to September 30, 1993, shall not be included in Liabilities.

7.12 Unrestricted Cash Flow. The Unrestricted Cash Flow of the Borrower shall be not less than negative \$1,000,000 for the six-month period ending March 31, 1987; and shall be not less than zero for (i) the nine-month period ending June 30, 1987; and (ii) the twelve-month period ending September 30, 1987. Thereafter, the Borrower's Unrestricted Cash Flow during the trailing twelve months ending as of the end of each fiscal quarter of the Borrower shall be not less than zero. The Borrower's Unrestricted Cash Flow for each such period shall be determined from a statement of Unrestricted Cash Flow delivered by the Borrower to the Lender as soon as practicable but in any event within forty (40) days following the end of each fiscal quarter.

7.13 Casualties, Sales, Proceeds and Replacements.

(a) So long as no Event of Default shall have occurred and be continuing, the Borrower may retain or use, as it deems appropriate, all insurance or indemnification proceeds ("Casualty Proceeds") arising from the occurrence of Casualties in any fiscal year until the aggregate Casualty Value of items subject to Casualties in such fiscal year equals or exceeds \$1,000,000 (the "Casualty Value Limit"). If the Casualty Value Limit is reached or exceeded in any fiscal year, the Borrower shall hold all Casualty Proceeds arising from subsequent Casualties during such fiscal year in trust for the Lender and shall, unless otherwise directed by the Lender, pay to the Lender an amount equal to the greater of the Casualty Value(s) of all items of Collateral giving rise to such excess or the Casualty Proceeds received by the Borrower with respect to such items. Such amounts shall be paid to the Lender promptly upon receipt of any Casualty Proceeds arising therefrom (regardless of whether those Casualty Proceeds are less than the corresponding Casualty Value(s)), and in any event not later than one hundred and eighty (180) days following receipt of notice by the Borrower of the occurrence of the underlying Casualty. All such payments to the Lender shall be applied as a partial prepayment of the Term Loan Obligations, without premium or penalty, except that if the Term Loan shall then bear interest at a fixed rate of interest, the Borrower shall pay to the Lender a prepayment premium computed in accordance with clause (b)(ii)(B) of subsection 2.8 hereof, with respect to the principal amount of the Term Loan so prepaid. Except as otherwise provided

in Exhibit 7.13 hereto, all payments to the Lender as a partial prepayment of the Term Loan Obligations shall be applied on the last maturing installment or installments of principal due on the Term Note and shall be accompanied by an amount equal to the accrued interest on the principal so prepaid to the date of such prepayment.

(b) So long as no Event of Default has occurred and is continuing, if the Borrower shall sell or otherwise dispose of any item of Collateral (including Rolling Stock), then the Borrower shall, upon receipt of the proceeds from such sale or disposition, hold all such proceeds in trust for the Lender and promptly pay such proceeds to the Lender for application against the Term Loan in accordance with the provisions of subparagraph (a) above or, at the Borrower's election, purchase substitute Collateral of equivalent value in which the Lender shall have a first and prior perfected lien or security interest.

(c) If an Event of Default shall have occurred and be continuing, the Borrower shall not sell any item of Collateral (including Rolling Stock) without the Lender's prior written consent and if a Casualty shall then occur with respect to any item of Collateral (including Rolling Stock), the Borrower shall hold all Casualty Proceeds in trust for the Lender and shall pay to the Lender an amount equal to the greater of the Casualty Value of such item of Collateral or the Casualty Proceeds received with respect thereto, within the time periods set forth in subparagraph (a) above.

7.14 Changes of Locations and Trade Names. With respect to: (i) changes in the Borrower's principal place of business and chief executive office; (ii) changes in the locations at which Borrower maintains any of its books and records, records of account or chattel paper; (iii) changes in the locations listed on Exhibit 6.7 hereto; or (iv) changes in the locations listed on Exhibit 6.7 hereto at which the Collateral, other than Rolling Stock is or may be located, the Borrower shall provide the Lender with thirty (30) days' prior written notice of the Borrower's intention to change any such location. Following the date hereof the Borrower will not conduct its business under any trade or fictitious name other than the duly registered names listed on Exhibit 6.8 hereto, except upon thirty (30) days prior written notice to the Lender.

8. NEGATIVE COVENANTS.

The Borrower covenants and agrees that so long as any of the Obligations remain outstanding and (even if there shall be no Obligations outstanding) so long as this Agreement remains in effect (unless the Lender shall give its prior written consent thereto):

8.1 Encumbrances. Except for existing liens and encumbrances disclosed in subsection 6.5, the Borrower will not create, incur, assume or suffer to exist any security interest, mortgage, pledge, lien or other encumbrance of any nature

whatsoever on any of the Collateral, other than the following "Permitted Liens": (i) liens securing the payment of taxes or other governmental charges not yet due and payable; (ii) deposits under workmen's compensation, unemployment insurance, social security and other similar laws, or to secure the performance of bids, tenders or contracts (other than for the repayment of borrowed money) or to secure statutory obligations or surety or appeal bonds, or to secure indemnity, performance or other similar bonds in the ordinary course of business; (iii) the liens and security interests in favor of the Lender; (iv) purchase money liens or similar liens granted to the Person financing a purchase of assets so long as (A) the lien granted is limited to the specific assets so acquired (and, if such acquired asset is Excluded Rolling Stock, to any Account or General Intangible to the extent such Account General Intangible relates to such Excluded Rolling Stock and is required as collateral by the Person financing such purchase), (B) the debt initially secured by such lien is not less than 50% nor greater than 100% of the acquisition cost of the specific asset so acquired and (C) no Event of Default has occurred and is continuing and no Default or Event of Default will occur after giving effect to such transaction (notification of such purchase money lien or similar lien to be provided within ten (10) days of acquisition of such asset); (v) liens and encumbrances upon the stock of Subsidiaries if not in violation of subsection 8.12; (vi) liens subject to good faith contest by the Borrower in accordance with subsection 7.4(a) and (vii) other liens and encumbrances on property, which do not, in the Lender's sole reasonable determination, (a) materially impair the use of such property, or (b) materially lessen the value of such property for the purposes for which the same is held by the Borrower.

8.2 Indebtedness and Liabilities. Except for the Indebtedness described in Exhibits 6.10-1 and 6.10-2, the Borrower shall not incur, create, assume, become or be liable in any manner with respect to, or suffer to exist, any Indebtedness, except for the Obligations; provided that so long as no Event of Default shall have occurred and be continuing and no Default or Event of Default will occur after giving effect to any additional Indebtedness which the Borrower proposes to incur, and, provided further, that, after giving effect to any such transaction, the Borrower shall have not less than \$3,000,000 in Unused Availability, the Borrower may incur additional Indebtedness, including additional Indebtedness as contemplated by clause (iv) of subsection 8.1 above, in such amounts and for such purposes as the Borrower deems appropriate. Except for the Indebtedness permitted in the preceding sentence, the Borrower shall incur no Liabilities except for trade obligations and normal accruals in the ordinary course of business not yet due and payable, or with respect to which the Borrower is contesting in good faith the amount or validity thereof by appropriate proceedings, and then only to the extent that the Borrower has set aside on its books adequate reserves therefor, if appropriate under Generally Accepted Accounting Principles.

8.3 Consolidations, Acquisitions. The Borrower shall not merge or consolidate with, purchase, lease or otherwise

acquire all or substantially all of the assets or properties of, or acquire any capital stock, equity interests, debt or other securities of, any other Person; provided that so long as no Event of Default shall have occurred and be continuing and no Default or Event of Default will occur after giving effect to any such transaction and, provided further, that, after giving effect to any such transaction, the Borrower shall have not less than \$3,000,000 in Unused Availability, the Borrower may engage in any such transaction that the Borrower deems appropriate, other than a merger or consolidation in which a Person other than the Borrower is the surviving entity. The Borrower shall not become a partner in any partnership or enter into any joint venture unless the Borrower shall be the managing partner or co-venturer in such partnership or joint venture. The Borrower shall not be acquired by any Person or be dissolved, or sell, assign, encumber, pledge, transfer or otherwise dispose of all or any substantial part of the Assets of the Borrower. The Guarantor shall continue to own at least fifty percent (50%) of the Borrower's outstanding Voting Stock.

8.4 Investments. The Borrower shall not make or permit to exist investments in any other Person other than Cash Equivalents; provided that the Borrower may make such other investments as it deems appropriate so long as no Event of Default shall have occurred and be continuing and no Default or Event of Default will occur after giving effect to any such investment, and provided further that after giving effect to any such investment the Borrower shall have Unused Availability of not less than \$3,000,000.

8.5 Guarantees. The Borrower shall not guarantee, endorse or otherwise in any way become or be responsible for any obligations of any other Person, whether directly or indirectly by agreement to purchase the indebtedness of any other Person or through the purchase of goods, supplies or services, or maintenance of working capital or other balance sheet covenants or conditions, or by way of stock purchase, capital contribution, advance or loan for the purpose of paying or discharging any indebtedness or obligation of such other Person or otherwise, except endorsements of negotiable instruments for collection in the ordinary course of business; provided that so long as no Event of Default shall have occurred and be continuing and no Default or Event of Default will occur after giving effect to the full amount for which the Borrower could become liable upon the performance of such guarantee, and provided further that after giving effect to the full amount for which the Borrower could become liable upon the performance of such guarantee the Borrower would have Unused Availability of not less than \$3,000,000, the Borrower may guarantee the obligations of a Restricted Subsidiary.

8.6 Loans. Except for advances for travel and related expenses to the Borrower's employees in the ordinary course of business and except for loans to the Guarantor and the Subsidiaries as permitted pursuant to subsection 8.7 below, the Borrower shall not make any loans or other advances to any Person.

8.7 Distributions, Loans, Contributions to Capital.

(a) So long as no Event of Default shall have occurred and be continuing and no Default or Event of Default will occur after giving effect to any such proposed payment or transfer, the Borrower may pay dividends with respect to its outstanding preferred stock, redeem all or part of its preferred stock, or make scheduled payments of principal or interest with respect to the Subordinated Obligations in aggregate amounts not exceeding the schedule of payments set forth on Schedule A to the Subordination Agreement.

(b) So long as no Event of Default shall have occurred and be continuing and no Default or Event of Default will occur after giving effect to any such payment or transfer and so long as the Borrower shall have Unused Availability of not less than \$3,000,000 after giving effect to any such payment or transfer, the Borrower, in addition to the payments permitted in paragraph (a) above, may make or pay additional dividends with respect to its preferred stock, make additional loans or advances to the Guarantor or make loans, advances to or additional contributions to the capital of its Subsidiaries; make or pay dividends or distributions with respect to its common stock; or pay management fees to the Guarantor or Affiliates of the Guarantor.

(c) The Borrower shall not make or pay dividends, distributions, loans, advances, contributions to capital or other similar transfers or similar payments to any of its corporate Affiliates or repurchase or redeem any of its outstanding capital stock, except as expressly permitted by paragraphs (a) and (b) above; provided however, that if the Restructuring Agreements require the Borrower to pay a dividend on its common stock at a time when such payment to the Guarantor is proscribed under clause (b) of this subsection 8.7, such dividend may be paid but the Guarantor shall simultaneously therewith loan its pro rata portion of such dividend to the Borrower. Such loan shall not reduce the Guarantor's obligations under the Funding Agreement, but the terms of such loan shall conform to the terms of Section 3 of the Funding Agreement and repayment thereof shall be subject to the provisions set forth in clause (b) of this subsection 8.7. Notwithstanding anything to the contrary in this clause (c), so long as no Event of Default shall have occurred and be continuing and no Default or Event of Default will occur after giving effect thereto, the Borrower may make investments in Restricted Subsidiaries in the ordinary course of its business to enable the Restricted Subsidiaries to pay their debts as they become due and owing, provided that such investments shall not exceed \$1,000,000 in the aggregate in any calendar year.

8.8 Amendment of Charter or Bylaws. Neither the Borrower's Certificate of Incorporation or Bylaws shall be amended in any way which would impair or impede the Lender's rights hereunder in any manner.

8.9 Lease Limitations. The Borrower shall not amend or terminate any lease or sublease of Rolling Stock on terms other

than those reasonably acceptable to, and consented to by, the Lender; provided that the Borrower may, without the Lender's consent, terminate any lease or sublease or amend any lease or sublease to add or delete Rolling Stock or Excluded Rolling Stock therefrom or modify the terms of any lease or sublease in a manner which it determines to be commercially reasonable, if the Collateral value of the leases and subleases to which the Rolling Stock is subject has not in the aggregate been diminished, as determined in good faith by the Borrower. Copies of all such amendments shall be delivered promptly to the Lender. The Borrower shall not amend or terminate existing leases or subleases, or enter into new leases or subleases, in a manner which intentionally discriminates against the Rolling Stock in favor of the Excluded Rolling Stock.

8.10 Transactions with Affiliates. The Borrower will not, without the prior written consent of the Lender, enter into any transaction with any Affiliate, including, without limitation, the purchase, sale or exchange of property or the rendering of any service to any Affiliate, except in the ordinary course of and pursuant to the reasonable requirements of the Borrower's business and upon fair and reasonable terms no less favorable to the Borrower than would obtain in a comparable arm's length transaction with an unaffiliated Person; provided, however, that so long as no Event of Default shall have occurred and be continuing and no Default or Event of Default will occur after giving effect to such payment, the foregoing shall not be deemed to prohibit the Borrower from making payments pursuant to a tax sharing agreement to be entered into between the Guarantor and its subsidiaries upon terms reasonable and customary to tax sharing agreements between members of consolidated tax groups, a true and correct copy of which will be delivered to the Lender promptly following the execution thereof by the Borrower.

8.11 Other Business. The Borrower shall not engage in any business unrelated to its current businesses without the prior written consent of the Lender which shall not be unreasonably withheld, or engage in any transaction which materially and adversely affects its ability to pay its Liabilities or its Obligations hereunder.

8.12 Restricted Subsidiaries. The Borrower (i) shall not sell, assign, convey, pledge, encumber or otherwise dispose of or assign or encumber any interest in any of the outstanding shares of capital stock of any Restricted Subsidiary; and (ii) shall not, and shall not cause or permit any Restricted Subsidiary to, sell, assign, convey, pledge, encumber or otherwise dispose of or assign or encumber any interest in any of the assets of any Restricted Subsidiary, if an Event of Default has occurred and is continuing or if such sale, assignment, conveyance, pledge, encumbrance or other disposition or encumbrance of such shares of capital stock or assets would result in a Default or an Event of Default occurring after giving effect thereto.

8.13 Chattel Paper. The Borrower shall not deliver possession of any chattel paper or instrument constituting Collateral to any Person other than the Lender. The Borrower will stamp

copies of operating leases with respect to Rolling Stock which it now or hereafter possesses indicating the security interest of the Lender in such lease. The Borrower will on a quarterly basis, provide the Lender with a report separately identifying (i) each operating lease which relates solely to Rolling Stock and (ii) each operating lease which relates to both Excluded Rolling Stock and Rolling Stock.

9. DEFAULT; RIGHTS AND REMEDIES OF THE LENDER.

9.1 Obligations. If an Event of Default shall exist or occur, the Lender may notify the Borrower of its election to terminate this Agreement and to make no further advances hereunder, in which event the Obligations shall be accelerated and all of the Obligations shall automatically, without further notice of any kind, be immediately due and payable, provided, that if any of the events specified in paragraphs (f) or (g) of the definition of "Events of Default" shall occur, the Obligations shall be accelerated and all of the Obligations shall automatically, without notice of any kind, be immediately due and payable.

9.2 Rights and Remedies Generally. Upon the occurrence of an Event of Default and acceleration or demand for payment in full of the Obligations, the Lender shall have, in addition to any other rights and remedies contained in this Agreement or in any of the other Financing Agreements, all of the rights and remedies of a secured party under the Code or other applicable laws, all of which rights and remedies shall be cumulative and non-exclusive, to the extent permitted by law. In addition to all such rights and remedies, the sale, lease or other disposition of the Collateral, or any part thereof, by the Lender after an Event of Default and acceleration or demand for payment in full of the Obligations, may be for cash, credit or any combination thereof, and the Lender may purchase all or any part of the Collateral at public or, if permitted by law, private sale, and in lieu of actual payment of such purchase price, may set-off the amount of such purchase price against the Obligations then owing. Any sales of the Collateral may be adjourned from time to time with or without notice. The Lender may, in its sole discretion, cause the Collateral to remain on the Borrower's premises or otherwise or to be removed and stored at premises owned by other Persons, at the Borrower's expense, pending sale or other disposition of the Collateral. The Lender shall have the right to conduct such sales on the Borrower's premises, at the Borrower's expense, or elsewhere, on such occasion or occasions as the Lender may see fit.

9.3 Entry Upon Premises and Access to Information. Upon the occurrence of an Event of Default and acceleration or demand for payment in full of the Obligations, the Lender shall have the right to enter upon the premises of the Borrower where the Collateral is located (or is believed to be located) without any obligation to pay rent to the Borrower, or any other place or places where the Collateral is believed to be located and kept, to render the Collateral usable or salable, to remove the Collateral therefrom to the premises of the Lender or any agent of the Lender for such time as the Lender may desire in order effectively to

collect or liquidate the Collateral, and/or to require the Borrower to assemble the Collateral and make it available to the Lender at a place or places to be designated by the Lender. Upon the occurrence of an Event of Default and acceleration or demand for payment in full of the Obligations, the Lender shall have the right to take possession of the Borrower's original books and records, to obtain access to Borrower's data processing equipment, computer hardware and software relating to the Collateral and to use all of the foregoing and the information contained therein in any manner the Lender deems appropriate; and the Lender shall have the right to notify postal authorities to change the address for delivery of the Borrower's mail to an address designated by the Lender and to receive, open and dispose of all mail addressed to the Borrower (other than mail from the Borrower's counsel and clearly marked as such).

9.4 Sale or Other Disposition of Collateral by the Lender. Any notice required to be given by the Lender of a sale, lease or other disposition or other intended action by the Lender with respect to any of the Collateral which is deposited in the United States mails, registered or certified and duly addressed to the Borrower at the address specified in subsection 10.13 below, at least ten (10) business days prior to such proposed action, shall constitute fair and reasonable notice to the Borrower of any such action. The net proceeds realized by the Lender upon any such sale or other disposition, after deduction for the expenses of retaking, holding, storing, transporting, preparing for sale, selling or otherwise disposing of the Collateral incurred by the Lender in connection therewith, shall be applied as provided herein toward satisfaction of the Obligations including, without limitation, the Obligations described in subsections 2.11 and 10.2 hereof. The Lender shall account to the Borrower for any surplus realized upon such sale or other disposition, and the Borrower shall remain liable for any deficiency. The commencement of any action, legal or equitable, or the rendering of any judgment or decree for any deficiency shall not affect the Lender's security interest in the Collateral until the Obligations are fully paid. The Borrower agrees that the Lender has no obligation to preserve rights to the Collateral against any other parties. The Lender is hereby granted a license or other right to use, without charge, (following the occurrence of an Event of Default and acceleration or demand for payment in full of the Obligations) the Borrower's labels, General Intangibles, Intellectual Property, Equipment, Real Estate, patents, copyrights, rights of use of any name, trade secrets, trade names, trademarks, service marks and advertising matter, or any property of a similar nature, as it pertains to the Collateral, in the leasing of, advertising for sale or lease and selling or leasing any Inventory or selling or leasing any other Collateral and the Borrower's rights under all licenses, leases and franchise agreements shall inure to the Lender's benefit until all Obligations are paid in full.

9.5 Waiver of Demand. DEMAND, PRESENTMENT, PROTEST AND NOTICE OF DEMAND, PRESENTMENT, PROTEST AND NONPAYMENT ARE HEREBY

WAIVED BY THE BORROWER. THE BORROWER ALSO WAIVES THE BENEFIT OF ALL VALUATION, APPRAISAL AND EXEMPTION LAWS.

9.6 Waiver of Notice. IN THE EVENT OF THE OCCURRENCE OF AN EVENT OF A DEFAULT, THE BORROWER HEREBY WAIVES ALL RIGHTS TO NOTICE AND HEARING OF ANY KIND PRIOR TO THE EXERCISE BY THE LENDER OF ITS RIGHTS TO REPOSSESS THE COLLATERAL WITHOUT JUDICIAL PROCESS OR TO REPLEVY, ATTACH OR LEVY UPON THE COLLATERAL WITHOUT PRIOR NOTICE OR HEARING. THE BORROWER ACKNOWLEDGES THAT IT HAS BEEN ADVISED BY COUNSEL OF ITS CHOICE WITH RESPECT TO THIS TRANSACTION AND THIS AGREEMENT.

10. OTHER RIGHTS AND OBLIGATIONS.

10.1 Waiver. The Lender's failure, at any time or times hereafter, to require strict performance by the Borrower of any provision of this Agreement shall not waive, affect or diminish any right of the Lender thereafter to demand strict compliance and performance therewith. Any suspension or waiver by the Lender of a Default or an Event of Default under this Agreement or any of the other Financing Agreements shall not suspend, waive or affect any other Default or Event of Default under this Agreement or any of the other Financing Agreements, whether the same is prior or subsequent thereto and whether of the same or of a different kind or character. None of the undertakings, agreements, warranties, covenants and representations of the Borrower contained in this Agreement or any of the other Financing Agreements and no Default or Event of Default by the Borrower under this Agreement or any of the other Financing Agreements shall be deemed to have been suspended or waived by the Lender unless such suspension or waiver is in writing and signed by an officer of the Lender, and directed to the Borrower specifying such suspension or waiver. Neither this Agreement nor the other Financing Agreements may be modified or amended except in a written agreement signed by the Borrower and the Lender.

10.2 Costs and Attorneys' Fees. If at any time or times hereafter the Lender employs counsel in connection with protecting or perfecting the Lender's security interest in the Collateral or in connection with any matters contemplated by or arising out of this Agreement, whether (a) to commence, defend, or intervene in any litigation or to file a petition, complaint, answer, motion or other pleadings, (b) to take any other action in or with respect to any suit or proceedings (bankruptcy or otherwise), (c) to consult with officers of the Lender or to advise the Lender as a result of any act or omission by the Borrower, (d) to protect, collect, lease, sell, take possession of, or liquidate any of the Collateral, or (e) to attempt to enforce or to enforce any lien, charge or security interest in any of the Collateral, or to enforce any rights of the Lender to collect any of the Obligations, then in any of such events, all of the reasonable attorneys' fees arising from such services, and any expenses, costs and charges relating thereto, including, without limitation, all reasonable fees of all paralegals and other staff employed by such attorneys, together with interest at the applicable rate pre-

scribed in subsection 2.6 above, shall be part of the Obligations, payable on demand and secured by the Collateral.

10.3 Expenditures by the Lender. In the event the Borrower shall fail to pay taxes, insurance, assessments, costs or expenses which the Borrower is, under any of the terms hereof, required to pay, or fails to keep the Collateral free from security interests, liens, encumbrances or claims, except as permitted herein, or fails to maintain, replace or repair the Collateral as required hereby, the Lender may, in its sole discretion, make expenditures for any or all of such purposes and acquire or accept an assignment of any security interest, lien, encumbrance or claim against the Collateral, and the amount so expended (including, without limitation reasonable attorneys' fees and expenses, court costs, filing fees and other charges), together with interest thereon at the applicable rate prescribed in subsection 2.6 above, shall be part of the Obligations, payable on demand and secured by the Collateral.

10.4 Custody and Preservation of Collateral. The Lender shall be deemed to have exercised reasonable care in the custody and preservation of any of the Collateral in its possession if it takes such action for that purpose as the Borrower shall request in writing, but failure by the Lender to comply with any such request shall not of itself be deemed a failure to exercise reasonable care, and no failure by the Lender to comply with any such request shall of itself be deemed a failure to exercise reasonable care, and no failure by the Lender to preserve or protect any right with respect to such Collateral against prior parties, or to do any act with respect to the preservation of such Collateral not so requested by the Borrower, shall of itself be deemed a failure to exercise reasonable care in the custody or preservation of such Collateral.

10.5 Reliance by the Lender. All covenants, agreements, representations and warranties made herein or in any of the other Financing Agreements by the Borrower or the Guarantor shall, notwithstanding any investigation by the Lender, be deemed to be material to and to have been relied upon by the Lender.

10.6 Parties and Assignment. Whenever in this Agreement reference is made to any of the parties hereto, such reference shall be deemed to include, wherever applicable, a reference to the successors and assigns of the Borrower and the Lender. Notwithstanding the foregoing, the Borrower may not sell, assign or transfer this Agreement, or the other Financing Agreements or any portion thereof, including without limitation its rights, titles, interests, remedies, powers and/or duties hereunder or thereunder. The Borrower hereby consents to the Lender's sale, assignment, transfer or other disposition, at any time and from time to time hereafter, of this Agreement, or the other Financing Agreements or any portion thereof, including without limitation all or any part of the Lender's rights, titles, interests, remedies, powers and/or duties hereunder or thereunder.

10.7 Applicable Law; Severability. This Agreement and the other Financing Agreements have been submitted to the Lender at its office in Illinois, and this Agreement and the other Financing Agreements, shall not be binding upon the Lender or effective until accepted by the Lender and shall be construed in all respects in accordance with, and governed by, all of the provisions of the Illinois Uniform Commercial Code and by the other internal laws (as opposed to conflicts of law provisions) of the State of Illinois, except for the perfection and enforcement of security interests and liens in other jurisdictions which shall be governed by the laws of those jurisdictions. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Agreement.

10.8 Submission to Jurisdiction; Waiver of Jury and Bond. THE BORROWER HEREBY CONSENTS TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT LOCATED WITHIN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IRREVOCABLY AGREES THAT, SUBJECT TO THE LENDER'S SOLE AND ABSOLUTE ELECTION, ALL ACTIONS OR PROCEEDINGS RELATING TO THIS AGREEMENT OR THE OTHER FINANCING AGREEMENTS SHALL BE LITIGATED IN SUCH COURTS, AND THE BORROWER WAIVES ANY OBJECTION WHICH IT MAY HAVE BASED ON IMPROPER VENUE OR FORUM NON CONVENIENS TO THE CONDUCT OF ANY PROCEEDING IN ANY SUCH COURT AND WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS UPON IT, AND CONSENTS THAT ALL SUCH SERVICE OF PROCESS BE MADE BY MAIL OR MESSENGER DIRECTED TO IT AT THE ADDRESS SET FORTH IN SUBSECTION 10.13 BELOW AND THAT SERVICE SO MADE SHALL BE DEEMED TO BE COMPLETED UPON THE EARLIER OF ACTUAL RECEIPT OR THREE (3) DAYS AFTER THE SAME SHALL HAVE BEEN POSTED TO THE BORROWER'S ADDRESS BY THE BORROWER'S AGENT AS SET FORTH BELOW. THE BORROWER HEREBY IRREVOCABLY APPOINTS CT CORPORATION SYSTEM, 208 SOUTH LASALLE STREET, CHICAGO, ILLINOIS 60604, OR SUCH OTHER PERSON AS THE LENDER MAY FROM TIME TO TIME HEREAFTER SELECT, AS ITS AGENT FOR THE PURPOSE OF ACCEPTING SERVICE OF ANY PROCESS WITHIN THE STATE OF ILLINOIS. THE LENDER AND THE BORROWER ACKNOWLEDGE THAT THE TIME AND EXPENSE REQUIRED FOR TRIAL BY JURY EXCEED THE TIME AND EXPENSE REQUIRED FOR A BENCH TRIAL AND HEREBY WAIVE, TO THE EXTENT PERMITTED BY LAW, TRIAL BY JURY, AND WAIVE ANY BOND OR SURETY OR SECURITY UPON SUCH BOND WHICH MIGHT, BUT FOR THIS WAIVER, BE REQUIRED OF THE LENDER. NOTHING CONTAINED IN THIS SUBSECTION 10.8 SHALL AFFECT THE RIGHT OF THE LENDER TO SERVE LEGAL PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR AFFECT THE RIGHT OF THE LENDER TO BRING ANY ACTION OR PROCEEDING AGAINST THE BORROWER OR ITS PROPERTY IN THE COURTS OF ANY OTHER JURISDICTION.

10.9 Marshalling. The Lender shall be under no obligation to marshall any assets in favor of the Borrower or any other party or against or in payment of any or all of the Obligations.

10.10 Section Titles. The section titles contained in this Agreement shall be without substantive meaning or content of

any kind whatsoever and are not a part of the agreement between the parties.

10.11 Continuing Effect. This Agreement, the Lender's security interests in the Collateral, and all of the other Financing Agreements shall continue in full force and effect so long as any Obligations shall be owed to the Lender, and (even if there shall be no Obligations outstanding) so long as this Agreement has not been terminated as provided in subsection 2.7 above.

10.12 Incorporation by Reference. The provisions of the other Financing Agreements are incorporated in this Agreement by this reference. Except as otherwise provided in this Agreement and except as otherwise provided in the other Financing Agreements by specific reference to the applicable provision of this Agreement, if any provision contained in this Agreement is in conflict with, or inconsistent with, any provisions in the other Financing Agreements, the provision contained in this Agreement shall govern and control.

10.13 Notices. Except as otherwise expressly provided herein, any notice required or desired to be served, given or delivered hereunder shall be in writing, and shall be deemed to have been validly served, given or delivered three (3) days after deposit in the United States mails, with proper postage prepaid, or upon delivery by courier or upon transmission by telex, telecopy or similar electronic medium to the following addresses:

(i) If to the Lender, at:

Prior to December 31, 1986: Heller Financial, Inc.
105 W. Adams Street
Chicago, Illinois 60603
Attn: Division President
Central Division
Commercial Financial
Services Group

After December 31, 1986: Heller Financial, Inc.
200 N. LaSalle Street
Chicago, Illinois 60601
Attn: Division President
Central Division
Commercial Financial
Services Group

(ii) If to the Borrower, at:

Itel Rail Corporation
55 Francisco Street
San Francisco, California 94133
Attn: President

or to such other address as each party designates to the other in the manner herein prescribed.

10.14 Waivers With Respect to Other Instruments. The Borrower waives presentment, demand and protest and notice of presentment, demand protest, default, nonpayment, maturity, release, compromise, settlement, extension, or renewal of any or all commercial paper, Accounts, contract rights, documents, instruments, chattel paper and guaranties at any time held by the Lender on which the Borrower may in any way be liable and hereby ratifies and confirms whatever the Lender may do regarding the enforcement, collection, compromise, or release thereof.

10.15 Retention of the Borrower's Documents. The Lender may destroy or otherwise dispose of all documents, schedules, invoices or other papers delivered to the Lender two years after same are received by the Lender unless the Borrower requests in writing that same be returned. Upon the Borrower's request and at the Borrower's expense, the Lender shall return such papers when the Lender's actual or anticipated need for same has terminated.

10.16 Entire Agreement. This Agreement, including all exhibits and other documents attached hereto or incorporated by reference herein, constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes all other understandings, oral or written, including without limitation any proposal or commitment letter, with respect thereto.

10.17 Equitable Relief. The Borrower recognizes that, in the event the Borrower fails to perform, observe or discharge any of its Obligations under this Agreement, any remedy at law may prove to be inadequate relief to the Lender; therefore, the Borrower agrees that the Lender, if the Lender so requests, shall be entitled to temporary and permanent injunctive relief in any such case without the necessity of proving actual damages.

IN WITNESS WHEREOF, this Agreement has been duly executed as of the day and year first above written.

HELLER FINANCIAL, INC.

By: Michael J. Stein

Title: Division President

ITEL RAIL CORPORATION

By: Robert S. [unclear]

Title: Authorized Officer (S. 45)

THE BORROWER ACKNOWLEDGES THAT IT HAS BEEN ADVISED BY COUNSEL OF ITS CHOICE WITH RESPECT TO THIS LOAN AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY, AND THE BORROWER ACKNOWLEDGES AND AGREES THAT (i) EACH OF THE WAIVERS SET FORTH HEREIN, INCLUDING, WITHOUT LIMITATION, THOSE WAIVERS SET FORTH IN SUBSECTIONS 9.5, 9.6 AND 10.8 HEREOF WERE KNOWINGLY AND VOLUNTARILY MADE; (ii) THE OBLIGATIONS OF THE LENDER HEREUNDER, INCLUDING THE OBLIGATION TO ADVANCE AND LEND FUNDS TO THE BORROWER IN ACCORDANCE HERewith, SHALL BE STRICTLY CONSTRUED AND SHALL BE EXPRESSLY SUBJECT TO THE BORROWER'S COMPLIANCE IN ALL RESPECTS WITH THE TERMS AND CONDITIONS HEREIN SET FORTH; AND (iii) NO REPRESENTATIVE OF THE LENDER HAS WAIVED OR MODIFIED ANY OF THE PROVISIONS OF THIS AGREEMENT AS OF THE DATE HEREOF AND NO SUCH WAIVER OR MODIFICATION FOLLOWING

THE DATE HEREOF SHALL BE EFFECTIVE UNLESS MADE IN ACCORDANCE WITH SECTION 10.1 HEREOF.

ALL REFERENCES TO "THE DATE HEREOF," "THE DATE OF THIS AGREEMENT," "THE EFFECTIVE DATE HEREOF," "EFFECTIVE AS OF THE DATE HEREOF" OR "OF EVEN DATE HERewith" CONTAINED HEREIN OR IN THE OTHER FINANCING AGREEMENTS SHALL BE DEEMED TO REFER TO THE EFFECTIVE DATE OF THIS AGREEMENT, WHICH SHALL BE OCTOBER 7, 1986.

HSC
HJ

SUPPLEMENT TO LOAN AND SECURITY AGREEMENT

This Supplement (the "Supplement"), dated as of this 7th day of October, 1986, to that Loan and Security Agreement (the "Agreement") effective as of the date hereof by and between ITEL Rail Corporation, a Delaware corporation with its principal place of business and chief executive office at 55 Francisco Street, San Francisco, California 94133 (the "Borrower"), and Heller Financial, Inc., a Delaware corporation with an office at 105 West Adams Street, Chicago, Illinois 60603 (the "Lender") (capitalized terms used but not defined herein shall have the meanings ascribed thereto in the Agreement):

WITNESSETH:

WHEREAS, the Agreement, other than as supplemented hereby, contemplates that 100% of the holders of the Equipment Trust Certificates shall have executed and delivered the Equipment Trust Certificate Exchange Agreement (the "Exchange Agreement"), dated as of July 30, 1986, by and among the Borrower, the Guarantor, the Trustee and such holders; and

WHEREAS, fewer than 100% of such holders have, as of the date hereof, executed and delivered such Exchange Agreement; and

WHEREAS, both the Borrower and the Lender desire that the Borrower grant to the Lender pursuant to the Agreement all right, title and interest to the Collateral (including the ETC Property as hereinafter defined) which the Borrower may now or hereafter be empowered or entitled to grant;

NOW, THEREFORE, in consideration of the foregoing and in order to induce the Lender to execute and deliver the Agreement, the parties hereby agree as follows; and in the case of any inconsistency between the terms of the Agreement and the terms hereof, the terms hereof shall govern and the Agreement shall be interpreted so as to conform to the terms hereof:

1. The Borrower hereby agrees to deliver or cause to be delivered to the Trustee the Equipment Trust Certificates described in Supplemental Exhibit A hereto (the "Heller ETCs"), and to direct the Trustee to register the Lender as the registered holder thereof pursuant to the power of attorney granted by the former holders of such Equipment Trust Certificates to the Borrower to designate the assignee of such Heller ETCs for assignment thereof pursuant to Section 1(a) of the Exchange Agreement.

2. The Lender shall hold such Heller ETCs as the registered holder thereof, and the Lender and the Borrower hereby agree that, with respect to such Heller ETCs:

(a) the Lender shall not sell, transfer or assign such Heller ETCs to any Person except with the Borrower's express

prior written consent, and each Certificate evidencing such Heller ETCs shall bear a legend to the effect that they may not be sold, transferred or assigned except with such consent;

(b) in the event any monies are paid by the Borrower pursuant to the terms of the Heller ETCs to the Trustee in respect of such Heller ETCs, including without limitation any payments on account of principal, interest, prepayment, redemption or otherwise, upon receipt thereof the Lender shall apply such payments to the Revolving Loan Obligations; provided, however, that (i) at any time when no Event of Default has occurred and is continuing, and there are no Revolving Loan Obligations outstanding, the Lender shall promptly remit to the Borrower all such monies so paid; and (ii) at any time when an Event of Default has occurred and is continuing the Lender may apply or reapply any such payments against any of the Obligations then due or declared due under the Loan Agreement; and

(c) in the event any monies are paid by the Borrower pursuant to the terms of the Heller ETCs to any Person (other than the Lender) in possession of certificates evidencing the Heller ETCs or to any person to whom the Lender transferred any rights with respect to the Heller ETCs, whether voluntarily paid or paid pursuant to the terms of an order of a court of competent jurisdiction, then such monies so paid will reduce the Obligations as follows: (i) to reduce any outstanding Obligation (other than a Revolving Loan Obligation or Term Loan Obligation) then due and unpaid; (ii) to reduce any Revolving Loan Obligation then unpaid and (iii) to reduce any Term Loan Obligations not yet due and payable. Notwithstanding any provision in this subparagraph to the contrary, no such payments to a holder of Heller ETCs shall be deemed to reduce the Obligations under the Loan Agreement, if such Heller ETCs were transferred by the Lender to another Person as a result of an order, judgment or decree of a court of competent jurisdiction; provided however that an amount equal to the consideration, if any, received by the Lender from such transferee shall be applied against the Obligations, or, if no Obligations are outstanding, shall be paid by the Lender to the Borrower.

3.(a) The Borrower agrees that it shall not, directly or indirectly, cause or permit the issuance of any trust certificates with respect to, or other interests in, the 1978 Series 2 Amended Trust or the 1978 Series 3 Amended Trust, except for the Minority ETCs and the Heller ETCs. The Borrower and the Lender agree that neither of them shall take any action or fail to take any action which has the effect of challenging or jeopardizing the Lender's rights to vote the Heller ETCs.

(b) The Borrower and the Lender agree that if the Borrower or any Affiliate hereafter individually becomes or

collectively become the owner of all the Minority ETCs, then such Persons shall immediately surrender the Minority ETCs, and the Lender shall also immediately surrender the Heller ETCs, to the Trustee, and the Lender and the Borrower and/or such Affiliate shall (i) execute, deliver and file any and all documents and take any and all actions necessary or appropriate to cause the Equipment Trust Agreement to be terminated and to cause title to the ETC Property to be vested in the Borrower, free and clear of all security interests, liens, pledges and encumbrances, except nonmaterial encumbrances permitted in accordance with clauses (i) and (ii) of Subsection 8.1 of the Agreement and a first and prior perfected lien and security interest in favor of the Lender.

(c) Notwithstanding anything contained in the previous paragraph, if at the time all the Minority ETCs are individually or collectively held or owned by the Borrower or any Affiliate, there exists a Default or an Event of Default, the Lender may, in its sole discretion by notice to the Borrower, elect that the Heller ETCs and Minority ETCs not be cancelled as provided herein.

4. The Agreement is hereby amended as hereinafter set forth in this Section 4, and until the termination of this Supplement in accordance with the provisions of Section 6 hereof, the Agreement shall be deemed to read as amended hereby. Upon the termination of this Supplement in accordance with the terms of Section 6 hereof, the amendments set forth in this Section 4 shall cease and be of no effect, and the Agreement shall, thereafter, be deemed to read as though unamended by this Supplement.

(a) The recital clause is hereby amended by replacing, in clause (i) thereof, the word "all" with the word "certain".

(b) The definition of "Current Liabilities" is hereby amended by adding at the end thereof, the words, "including without limitation, any amount payable by the Borrower within one year under the Equipment Trust Agreement to the Minority ETC Holder."

(c) The definition of "Event of Default" is hereby amended as follows:

(i) by adding, at the end of clause (j) thereof, the words "excluding Indebtedness owed to the Minority ETC Holder with respect to the Minority ETCs;"

(ii) by adding, at the end of clause (l) thereof, the words "or entry of an order, judgment or decree against the Borrower, the Lender or the Trustee which invalidates any material right granted to the Lender under the Financing Agreements with respect to the ETC Property or any material portion thereof, which order, judgment or decree is not stayed, vacated or dismissed within sixty (60) days after entry."

(d) The definition of "Indebtedness" is hereby amended by adding at the end of clause (a) thereof, the words "and obligations to the Minority ETC Holder."

(e) The definition of "Restructuring Agreements" is hereby amended by replacing the first part of clause (ii) thereof (through the words "Amended Trust Certificates for") with the following:

"(ii) all of the holders of the Borrower's Amended Trust Certificates, except for the Minority ETC Holder, will exchange such Amended Trust Certificates for (or, in the case of certain holders of the Borrower's Amended Trust Certificates 1978-2 and 1978-3, assign such Amended Trust Certificates in exchange for) such holders' prorata share of".

(f) The definition of "Rolling Stock" shall be amended to read in its entirety as follows:

"Rolling Stock" shall mean all railroad cars, trailers and other items of rolling stock, spare parts and other items of Inventory related thereto now owned or hereafter acquired by the Borrower, wherever located, including without limitation the ETC Rolling Stock, but excluding the Excluded Rolling Stock.

(g) Subsection 1.1 of the Agreement is hereby amended by inserting the following definitions in alphabetical order therein:

"ETC Leases" shall mean those operating leases and subleases with respect to the ETC Rolling Stock in which the Trustee now or hereafter has a security interest, including those leases and subleases identified on Supplemental Exhibit B, provided that such leases or subleases shall be deemed to be ETC Leases only to the extent that they relate to the use or lease of ETC Rolling Stock.

"ETC Property" shall mean all property now or hereafter subject to the 1978 Series 2 Amended Trust or the 1978 Series 3 Amended Trust, including but not limited to, ETC Leases, ETC Rolling Stock and any and all items of personal property related thereto including all rights or claims of the Trustee relating to any of the foregoing.

"ETC Rolling Stock" shall mean all Rolling Stock now or hereafter subject to the terms of the 1978 Series 2 Amended Trust or the 1978 Series 3 Amended Trust including the ETC Rolling Stock identified on Supplemental Exhibit B hereto.

"Minority ETCs" shall mean, collectively, the 1978 Series 2 Amended Equipment Trust Certificates and the 1978 Series 3 Amended Equipment Trust Certificates currently registered in the name of Pace & Co. and described in Supplemental Exhibit C or any Amended Equipment Trust Certificates issued in exchange for or in replacement of such certificates.

"Minority ETC Holder" shall mean Pace & Co. or any subsequent holder(s) of any of the Minority ETCs.

"Trust Certificate Purchase Agreement" shall mean the Trust Certificate Purchase Agreement of even date herewith between the Borrower and the Lender.

"1978 Series 2 Amended Trust" shall mean the 1978 Series 2 Amended ETC Series Trust subject to the Equipment Trust Agreement.

"1978 Series 3 Amended Trust" shall mean the 1978 Series 3 Amended ETC Series Trust subject to the Equipment Trust Agreement.

(h) Subsection 4.2(c) is hereby amended by adding to clause (i) thereof, after the words "Rolling Stock and other Inventory", the words "(other than the ETC Property)."

(i) Subsection 4.2(w) is hereby amended by adding, after the words "The holders of the Amended Trust Certificates," the words "(other than the Minority ETC Holder)," and, after the words "all of the Amended ETC Series Trusts," the words "(other than the 1978 Series 2 Amended Trust and the 1978 Series 3 Amended Trust)."

(j) Subsection 5.1 is hereby amended to read in its entirety as follows:

5.1 Security Interest. All of the Borrower's Obligations constitute one loan secured by the Lender's security interests in the Collateral and by all other security interests, liens, mortgages, claims and encumbrances now or from time to time hereafter granted by the Borrower to the Lender. To secure payment and performance of the Obligations, the Borrower hereby sells, assigns, conveys, mortgages, pledges, hypothecates and transfers and hereby grants to the Lender a right of setoff against and a continuing lien upon and security interest in and to the following property and interests in property, whether now owned or hereafter acquired by the Borrower and wheresoever located: (i) Accounts (including without limitation all of the Borrower's rights with respect to Accounts relating to and arising out of ETC Rolling Stock); (ii) General Intangibles (including without limitation all of the Borrower's rights with respect to General Intangibles relating to ETC Rolling Stock, including

ETC Leases); (iii) Inventory (including without limitation Rolling Stock, including ETC Rolling Stock); (iv) Equipment; (v) Intellectual Property (including without limitation all of the Borrower's rights with respect to Intellectual Property relating to ETC Property); (vi) ETC Property; (vii) any right, title or interest in or to all ETC Property upon termination of the Equipment Trust Agreement or the Amended ETC Series Trust to which such ETC Property is subject; (viii) all of the Borrower's right, title and interest in and to all deposit accounts (general or special) with any financial institution with which the Borrower maintains deposits; (ix) all of the Borrower's now owned or hereafter acquired monies, and any and all other property and interests in property now owned or hereafter acquired by the Borrower and now or hereafter coming into the actual possession, custody or control of the Lender or any agent of the Lender; (x) all insurance policies relating to any of the foregoing, including without limitation business interruption insurance, if any; (xi) all of the Borrower's books and records relating to any of the foregoing; (xii) all accessions and additions to, substitutions for, and replacements and products of any of the foregoing; and (xiii) all cash collections from, and all other cash and non-cash proceeds of, any of the foregoing; provided, however, that, except as otherwise set forth on Exhibit 5.1 hereto, no grant of any security interest hereunder is intended and the Borrower does not convey or grant to the Lender any right, title or interest in or to (1) the Borrower's interest in any conditional sales agreement or capitalized lease relating to the Excluded Rolling Stock, (2) the Borrower's interest in any operating lease to the extent such lease relates to Excluded Rolling Stock, (3) any Account or General Intangible to the extent such Account or General Intangible relates to an item of Excluded Rolling Stock identified on Exhibit 1.1B hereto or to any hereafter acquired item of Excluded Rolling Stock with respect to which the Borrower is prohibited from granting to the Lender a security interest in such Account or General Intangible under the terms of the Borrower's financing with respect to such item of Excluded Rolling Stock, (4) capital stock in the Subsidiaries, (5) property in the possession of the Borrower which is not owned by the Borrower, and (6) Excluded Rolling Stock.

(k) Subsection 5.2 is hereby amended to read in its entirety as follows:

5.2 Preservation of Collateral and Perfection of Security Interests Therein. Prior to the execution of this Agreement, the Borrower shall have executed and delivered to the Lender, and at any time or times hereafter at the request of the Lender, the Borrower shall execute and deliver, all financing statements, security agreements, amendments thereto, or other documents (including, without limitation, any documents requested in the event of a termination of the

Equipment Trust Agreement or any Amended ETC Series Trust or any acquisition by the Borrower of rights or property constituting ETC Property) and pay the cost of filing or recording the same in all public offices deemed necessary by the Lender, as the Lender may request, in a form satisfactory to the Lender, to perfect and maintain the security interests in the Collateral granted by the Borrower to the Lender or to otherwise protect and preserve the Collateral and the Lender's security interests therein or to enforce the Lender's security interests in the Collateral. Should the Borrower fail to do so, the Lender is authorized to sign any such financing statements or other documents as the Borrower's agent. The Borrower further agrees that a carbon, photocopy or other reproduction of this Agreement or of a financing statement is sufficient as a financing statement. The Borrower shall make appropriate entries upon its books and records disclosing the Lender's liens and security interests in the Collateral. The Borrower shall not remark any item of Rolling Stock with new or different identification numbers or otherwise alter any item of Rolling Stock in a manner such that the description of such item of Rolling Stock contained in the Security Agreement, any lease assignment or any other financing statement or security agreement would become inaccurate, except for remarking performed in the ordinary and regular course of the Borrower's business; provided that with respect to remarking performed in the ordinary and regular course of the Borrower's business, the Borrower shall identify to the Lender in the format of the Borrower's regular records those items of Rolling Stock which have been remarked together with the new identification numbers for such items of Rolling Stock on a monthly basis upon the Borrower's obtaining knowledge of the foregoing, but in no event later than the date which is substantially contemporaneous with the completion of the remarking of any distinct group of Rolling Stock, and the Borrower shall cause the Security Agreement, any lease assignment and any other financing statement or security agreement affected thereby to be amended to reflect such remarking at such times as may be reasonably requested by the Lender.

(1) Subsection 6.5 is hereby amended to read in its entirety as follows:

6.5 Collateral. (a) Attached hereto as Exhibit 6.5-A is a list of railroad cars and trailers that were owned by the Borrower or held subject to the Equipment Trust Agreement (collectively, the "Existing Rolling Stock") as of July 30, 1986. All of the items of ETC Rolling Stock as of July 30, 1986 (which constitute a part of the Existing Rolling Stock) are listed in Supplemental Exhibit B hereto. There have been no material increases or decreases in the numbers of Existing Rolling Stock (including items of Rolling Stock constituting ETC Rolling Stock) since July 30, 1986. The Borrower has good and merchantable title to the Existing Rolling Stock

free and clear of all security interests, liens, pledges, and encumbrances, except nonmaterial encumbrances permitted in accordance with clauses (i) and (ii) of subsection 8.1; liens or security interests in favor of the Lender; the operating leases and subleases listed on Schedule 6.5-B hereto, and the security interest of the Trustee under the Equipment Trust Agreement with respect to the ETC Rolling Stock listed on Supplemental Exhibit B. Alternatively, if the Trustee is deemed to be the owner of the ETC Rolling Stock under the terms of the Equipment Trust Agreement, the Borrower represents and warrants to the Lender that the Trustee owns the ETC Rolling Stock free and clear of all security interests, liens, pledges, and encumbrances, except nonmaterial encumbrances permitted in accordance with clauses (i) and (ii) of subsection 8.1 of the Agreement; liens or security interests in favor of the Lender; those operating leases described in Supplemental Exhibit B which relate to the ETC Rolling Stock; and the rights and interests of the Borrower under the Equipment Trust Agreement.

(b) The Borrower has no interest in railroad cars or trailers or other rolling stock other than the Existing Rolling Stock set forth in Schedule 6.5-A hereto, and the Excluded Rolling Stock (which includes the railcars constituting Excluded Rolling Stock listed in Exhibit 1.1B hereto), all of which Excluded Rolling Stock is subject to purchase money, leveraged lease or other similar financing arrangements with other lenders.

(c) Attached hereto as Schedule 6.5-B is a list of all operating leases or subleases to which the Rolling Stock is subject (the "Leases"). All of the Leases have been assigned to the Lender to the extent that such Leases relate to Existing Rolling Stock, except as identified on Schedule 6.5-B. There are no operating leases or subleases with respect to the Existing Rolling Stock which have not been assigned to the Lender, except as identified on Schedule 6.5-B. The Borrower's interest in the Leases is free and clear of all security interests, liens, pledges, charges, claims encumbrances or assignments, except (i) the security interests of the Lender; (ii) partial assignments thereof to other creditors to the extent that Excluded Rolling Stock in which such other creditors have an interest is subject to any such Lease (as amended or replaced from time to time); and (iii) the security interest of the Trustee in the existing ETC Leases listed on Supplemental Exhibit B (as amended or replaced from time to time) to the extent that such leases relate to ETC Rolling Stock.

(d) All of the Borrower's Accounts arising from the sale or lease of Existing Rolling Stock or the rendering of services by the Borrower are owned by the Borrower free and clear of all security interests, liens, pledges, encumbrances or assignments ("Included Accounts"), except that Accounts

arising from the sale or lease of Excluded Rolling Stock are or may be subject to security interests (whether perfected or unperfected) in favor of creditors who hold security interests in or title to the Excluded Rolling Stock ("Excluded Accounts") and the Lender's security interest in Accounts arising from the sale or lease of ETC Rolling Stock may be junior to a security interest therein (whether perfected or unperfected) in favor of the Trustee ("Junior Accounts"). Other than the Included Accounts, Excluded Accounts and Junior Accounts, the Borrower has no material Accounts.

(e) All of the Collateral (other than the Existing Rolling Stock, the Leases and Accounts treated in the preceding paragraphs of this subsection 6.5) is owned by the Borrower free and clear of all recorded security interests, liens or encumbrances, based on the search results attached hereto as Schedule 6.5-C.

(f) Except for the ETC Property which is subject to the interest of the Trustee pursuant to the Equipment Trust Agreement, the Indebtedness listed on Exhibit 6.15 is secured only by assets other than Collateral and the creditors' recourse with respect thereto is as set forth on Exhibit 6.15.

(m) Subsection 6.10 is hereby amended by adding to the end of the first sentence of such subsection the words "and except Indebtedness evidenced by the Minority ETC's and the Heller ETC's."

(n) Subsection 6.29 as set forth below is hereby added:

"6.29 Heller ETCs. The principal amount of the Heller ETCs is equal to or greater than two-thirds of the aggregate principal amount of the Equipment Trust Certificates outstanding with respect to each of the 1978 Series 2 Amended Trust and the 1978 Series 3 Amended Trust, after giving effect to the instructions referred to in Section 5(b) of the Supplement. After giving effect to those instructions, the only Equipment Trust Certificates outstanding will be the Heller ETCs and the Minority ETCs. The Lender will acquire its interest in the Heller ETCs free of liens, security interests and adverse claims."

5. In addition to those conditions set forth in Section 4 of the Agreement, the making of the initial advance of funds under the Revolving Loan and funding of the Term Loan shall be subject to the satisfaction of the following conditions:

(a) The Trustee shall have executed and delivered to the Lender the following documents:

(i) a security agreement, dated of even date herewith, between the Trustee and the Lender, satisfactory in form and substance to the Lender wherein the Trustee shall grant to the Lender a security interest in the ETC Rolling Stock, contingent upon the vote of the requisite percentage of holders of Equipment Trust Certificates (the "Trustee Security Agreement");

(ii) a certificate of the Trustee, certifying that in the event that certain Equipment Trust Certificate holders transfer their Equipment Trust Certificates to the Lender in accordance with the provisions of the Equipment Trust Agreement, the Trustee will recognize the Lender as a registered holder of such Equipment Trust Certificates with full voting rights with respect thereto.

(iii) a copy of a letter to Equipment Trust Certificate holders, to be sent to registered holders of Equipment Trust Certificates immediately subsequent to the registration of the Lender as a holder in accordance with the preceding paragraph, wherein the Trustee shall request the vote of such holders with respect to (A) the amendment of the Equipment Trust Agreement to provide that the following shall constitute an Event of Default under the Equipment Trust Agreement: "The Borrower shall default in any payment of the Obligations (as defined in the Loan and Security Agreement, dated as of September 30, 1986 between Heller Financial, Inc. and Rail (the "Loan Agreement")), beyond any period of grace provided with respect thereto, or shall default in the performance of any other agreement, term or condition contained in the Loan Agreement, and the effect of such default, if it occurs prior to the stated maturity or scheduled date for the payment of the Obligations, is to cause the Obligations to become due prior to the stated maturity or scheduled date for payment thereof;" and (B) the grant by the Trustee to the Lender of a security interest in the ETC Rolling Stock; and

(b) The Borrower shall have executed irrevocable instructions to the Trustee to cancel all outstanding Equipment Trust Certificates delivered to the Trustee, except the Minority ETCs and the Heller ETCs.

6. This Supplement shall terminate upon the earlier of (a) the termination of the Equipment Trust Agreement and the liens and security interests in the ETC Property in favor of the Lender having become first and prior perfected liens and security interests subject only to nonmaterial encumbrances permitted in accordance with clauses (i) and (ii) of subsection 8.1 of the Agreement, or (b) the full and final payment of all of the Obligations. Immediately and automatically upon such termination, this Supplement shall cease and be of no effect, and the Agreement

shall be unaffected hereby, except that the representations and warranties made in the Agreement on and as of the Closing Date thereof shall be deemed to have been made as supplemented hereby; provided, however, that the obligation to perform any actions required of either of the parties hereto following the termination hereof shall survive such termination.

7. The Borrower shall indemnify and hold harmless the Lender from and against all damages, claims, expenses and costs arising from claims by present or former Equipment Trust Certificate holders or from indemnification claims by the Trustee, arising in connection with the Financing Agreements or the transactions contemplated thereby, except that the Borrower's obligations hereunder shall not constitute an obligation to reimburse the Lender for the purchase price of the Minority ETCs.

The obligations of the Borrower under this Section 7 shall terminate in accordance with Section 6 above, except as to claims then pending or threatened.

8. Neither the Equipment Trust Agreement nor the Lender's status as the holder of the Heller ETCs shall be deemed to amend or modify the Agreement or any of the rights or obligations of the parties thereto.

9. (a) If a suit or action shall be filed alleging that this Supplement, the Heller ETCs or the Trustee's Security Agreement, or any act taken or which can be taken pursuant to or under any of the foregoing, entitle the Minority ETCs to be accelerated (and the Borrower shall have been unable to obtain the consent of the Former ETC Holders (as hereinafter defined) within ninety (90) days after the filing of such suit or action to resolve such suit or action) or entitle the holders of Equipment Trust Certificates exchanged pursuant to the Exchange Agreement (the "Former ETC Holders") to recover an amount greater than the then applicable prepayment fee under subsection 2.8(b)(i) of the Agreement, the Borrower may, upon not less than fifteen (15) days prior written notice to the Lender and provision to the Lender of copies of such suit or action, prepay the Obligations under the Agreement without premium or penalty under subsection 2.8(b)(i) of the Agreement.

(b) If an order, judgment or decree of the type described in Section 4(c)(ii) of this Supplement shall be entered and the Lender shall not have prospectively waived its right to declare an Event of Default with respect thereto within fifteen (15) days after obtaining notice thereof, the Borrower may prepay the Obligations under the Loan Agreement without premium or penalty under Subsection 2.8(b)(i) of the Agreement at any time before the date which is sixty (60) days following the date such order, judgment or decree was entered.

IN WITNESS WHEREOF, this Supplement has been duly executed as of the day and year first above written.

HELLER FINANCIAL, INC.

By: Michael D. L...

Title: General Counsel

ITEL RAIL CORPORATION

By: Howard S. Cohen

Title: Authorized Officer (Asst. Secy)

regulation, contractual arrangement, judgment, order or decree (i) restricting the transfer or disposition of such cash or Cash Equivalents, including the transfer thereof to the Borrower and the application thereof against the Obligations or (ii) the effect of which is to make such transfer, disposition or application materially disadvantageous to the Borrower or such Restricted Subsidiary.

"Unrestricted Cash Flow" shall mean with respect to the Borrower for any applicable fiscal period an amount equal to (a) the aggregate amount of Unrestricted Cash and Unrestricted Cash Equivalents at the close of such fiscal period, minus (b) the aggregate amount of Unrestricted Cash and Unrestricted Cash Equivalents at the beginning of such fiscal period, minus (c) the net change (expressed as a positive or negative number, as the case may be) in Current Liabilities during such fiscal period.

"Unused Availability" shall mean the difference at any time between the amount available to be loaned to the Borrower at such time under the revolving credit facility hereunder and the then outstanding balance of the Revolving Loan.

"Voting Stock" shall mean the capital stock of any corporation outstanding and entitled to vote on all issues submitted to the stockholders of such corporation for approval.

1.2 Accounting Terms. Any accounting terms used in this Agreement which are not specifically defined herein shall have the meanings customarily given them in accordance with Generally Accepted Accounting Principles.

1.3 Other Terms Defined in Illinois Uniform Commercial Code. All other terms contained in this Agreement (and which are not otherwise specifically defined herein) shall have the meanings provided in the Uniform Commercial Code of the State of Illinois (the "Code") to the extent the same are used or defined therein.

2. CREDIT.

2.1 Revolving Credit Facility and Revolving Loan. Subject to the terms and conditions herein set forth, the Lender and/or one or more Participants shall make loans or advances to the Borrower, on a revolving credit basis (the "Revolving Loan"), in an aggregate amount not in excess of the lesser of the unused portion of (i) the Total Revolving Loan Facility, or (ii) the "Current Asset Base." As used herein, the "Current Asset Base" shall mean an amount equal to 75% of the face amount (less maximum discounts, credits and allowances which may be taken by or granted to Account Debtors in connection therewith) then outstanding under existing "Eligible Accounts" (as defined in subsection 3.2 hereof), less such reserves as the Lender in its sole reasonable

discretion elects to establish. Unless otherwise requested by the Borrower in accordance with subsection 4.1 hereof, each advance to the Borrower shall, on the day of such advance, be deposited, in immediately available funds, in such account as the Borrower may, from time to time, designate.

2.2 Maximum Principal Balance of Revolving Loan. The aggregate outstanding principal balance of the Revolving Loan shall at no time exceed the least of the (i) Current Asset Base, (ii) the Total Revolving Loan Facility, or (iii) the sum of Ten Million Dollars (\$10,000,000) plus the amount, if any, by which Seventy Million Dollars (\$70,000,000) exceeds the outstanding principal balance of the Term Loan. The Borrower agrees that if at any time the outstanding principal balance of the Revolving Loan exceeds the amount permitted under the foregoing sentence, the Borrower shall promptly pay to the Lender the excess over such permitted amount.

2.3 Evidence of Revolving Loan Indebtedness. The advances constituting the Revolving Loan Obligations shall be evidenced by a promissory note (the "Revolving Loan Note") of even date herewith in the form attached hereto as Exhibit 2.3. All of the Borrower's Revolving Loan Obligations to the Lender hereunder shall be payable by the Borrower in accordance with subsection 3.5 hereof and shall be payable in full upon termination of this Agreement in accordance with the terms hereof, and the principal amount of such Revolving Loan Obligations shall bear interest as hereinafter provided. Each advance by the Lender and each repayment of principal applicable to such advance shall be reflected in the Borrower's Loan Account (as hereinafter defined) applicable to the Revolving Loan.

2.4 Term Loan. Simultaneously with the initial advance under the Revolving Loan and subject to the terms and conditions of this Agreement, the Lender shall loan the Borrower such amount as the Borrower may request up to a maximum of the Total Term Loan Facility (the "Term Loan"); provided, however, that in no event shall the sum of the amount of the advance under the Term Loan and the initial advance under the Revolving Loan exceed the Total Facility. The Term Loan shall be evidenced by a term note of even date herewith, executed by the Borrower and payable to the order of the Lender, in the form attached hereto as Exhibit 2.4 (the "Term Note").

2.5 Amortization of the Term Loan. The principal balance of the Term Loan shall be payable in eighty-four (84) consecutive monthly installments commencing on the first day of November, 1986. The first eighty-three (83) monthly installments shall be in the amount of Eight Hundred Thirty-Three Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$833,333.33) each and the final installment in the amount of Eight Hundred Thirty-Three Thousand Three Hundred Thirty-Three Dollars and Sixty-One Cents (\$833,333.61) shall be due and payable on October 1, 1993.

2.6 Interest.

(a) (i) The Borrower shall pay to the Lender interest on the outstanding principal balance of the Revolving Loan Obligations at the Normal Rate. The Normal Rate applicable with respect to the Revolving Loan Obligations shall be equal to one percent (1%) per annum in excess of the Prime Rate from time to time in effect; provided, however, that the Borrower may elect on any Conversion Date to convert the Normal Rate on the outstanding principal balance of the Revolving Loan Obligations to either of the following interest rates or to convert from either of such rates to the other such rate or to the above-described interest rate:

(1) the Secondary CD Rate from time to time in effect, plus a spread over the Secondary CD Rate determined by the Lender as yielding a rate of interest comparable to the rate described above based on the Prime Rate on a continuing basis; or

(2) the LIBOR Rate from time to time in effect, plus a spread over the LIBOR Rate determined by the Lender as yielding a rate of interest comparable to the rate described above based on the Prime Rate on a continuing basis;

in any case by giving the Lender notice of such election, which notice shall be received in writing by the Lender prior to the close of business on a date at least three (3) Business Days prior to the desired Conversion Date.

(ii) Interest shall be payable monthly in arrears on the first day of each calendar month and shall be computed by multiplying the closing daily balance in Borrower's Revolving Loan Account for each day during the preceding month by the interest rate determined to be applicable hereunder on each such day.

(b) (i) The Borrower shall pay to the Lender interest on the outstanding principal balance of the Term Loan Obligations at the Normal Rate. The Normal Rate applicable with respect to the Term Loan Obligations shall be equal to one percent (1%) per annum in excess of the Prime Rate from time to time in effect; provided, however, that the Borrower may elect on any Conversion Date to convert the Normal Rate on the outstanding principal balance of the Term Loan Obligations to any of the following interest rates or to convert any of such rates to one of the other such rates or to the above-described interest rate:

(1) the Secondary CD Rate from time to time in effect, plus a spread over the Secondary CD Rate determined by the Lender as yielding a rate of interest comparable to the rate described above based on the Prime Rate on a continuing basis; or

(2) the LIBOR Rate from time to time in effect, plus a spread over the LIBOR Rate determined by the Lender as yielding a rate of interest comparable to the rate described above based on the Prime Rate on a continuing basis;

(3) a per annum fixed rate of interest equal to the sum of (X) the yield on such Conversion Date for a Treasury Note with a term equal to that remaining on the Term Loan on such Conversion Date plus (Y) a spread over the Treasury Note yield as then quoted by the Lender to other borrowers;

in any case by giving the Lender notice of such election, which notice shall be received in writing by the Lender prior to the close of business on a date at least three (3) Business Days prior to the desired Conversion Date except that in the event the Borrower elects alternative (3) above or elects to convert from the fixed rate provided for in alternative number (3) above to another rate, such notice shall be received not less than ten (10) Business Days prior to the desired Conversion Date. If the Borrower shall elect to convert the Normal Rate on the outstanding principal balance of the Term Loan Obligations from a fixed rate to a fluctuating rate as provided herein, then on such Conversion Date the Borrower shall pay to the Lender for the costs of being prepared to make funds available to the Borrower on a fixed interest rate basis, an amount computed in accordance with clause (b)(ii)(B) of subsection 2.8 hereof with respect to the prepayment of the principal balance of the Term Loan outstanding on such Conversion Date.

(ii) Interest on the Term Loan Obligations shall be payable monthly in arrears on the first day of each calendar month commencing on November 1, 1986.

(c) Interest shall be computed (on a daily basis) on the basis of a 360-day year for the actual number of days elapsed.

(d) Following the occurrence of an Event of Default, the Borrower shall pay to the Lender interest from the date of such Event of Default to and including the date of cure of such Event of Default on the outstanding principal balance of the Obligations at the Default Rate applicable to such Obligations.

(e) Interest shall be due at the Normal Rate or the Default Rate, as provided herein, after as well as before demand, default and judgment. If any interest payment or other charge or fee payable hereunder exceeds the maximum amount then permitted by applicable law, the Borrower shall be obligated to pay the maximum amount then permitted by applicable law and the Borrower shall continue to pay the maximum amount from time to time permitted by applicable law until all such interest payments and other charges and fees otherwise due hereunder (in the absence of such restraint imposed by applicable law) have been paid in full.

2.7 Method of Making Interest and Other Payments. In its sole discretion, the Lender may deem interest and other amounts due and payable hereunder (other than the principal balance of the Revolving Loan Obligations) to be paid by causing such amounts to be added to the principal balance of the Revolving Loan Obligations all as set forth on the Lender's books and records. Unless otherwise directed by the Lender, all payments to the Lender hereunder shall be made by delivery thereof to the Lender at its address set forth above or, with respect to the Revolving Loan only, by delivery to the Lender for deposit in the "Depository Account" of all proceeds of Accounts or other Collateral in accordance with subsection 3.5 hereof. If the Lender elects to bill the Borrower for any amount due hereunder, such amount shall be immediately due and payable with interest thereon as provided herein. Solely for the purpose of calculating interest earned by the Lender with respect to the Revolving Loan, any check, draft or similar item of payment by or for the account of the Borrower delivered to the Lender or deposited in the Depository Account in accordance with subsection 3.5 hereof shall be applied by the Lender on account of the Borrower's Revolving Loan Obligations on the second day after delivery thereof to the Lender, or, in the case of deposits in the Depository Account, on the second day following deposit in the Depository Account. Checks, drafts or other items of payment received or deposited after 2:00 p.m. shall be deemed to have been received or deposited on the following Business Day.

2.8 Term of this Agreement.

(a) Term. This Agreement shall be effective until seven (7) years from the date first above written (the "Initial Term"), subject to annual renewals thereafter as hereinafter provided (each such renewal being referred to as a "Renewal Term"), provided, however, that all of the Lender's rights and remedies under this Agreement shall survive such termination until all of the Obligations under this Agreement and the other Financing Agreements have been finally paid in full. Unless the Borrower, the Guarantor and the Lender shall agree in writing to extend this Agreement, this Agreement shall terminate upon the earlier to occur of the expiration of the Initial Term or any Renewal Term, as applicable, or the final payment in full of all of the Obligations. In addition, this Agreement may be terminated as set forth in Section 9 hereof. Upon the effective date of termination, all of the Obligations shall become immediately due and payable without notice or demand. Notwithstanding any termination, until all of the Obligations shall have been fully and finally paid and satisfied, the Lender shall be entitled to retain security interests in and liens upon all existing and future Collateral, and the Borrower shall continue to remit collections of Accounts and proceeds as provided herein.

(b) Prepayment Fees. Except as provided in subsection 7.13 hereof, the Borrower's Obligations hereunder may only be prepaid in full and not in part; provided, however, that a

reduction of the outstanding balance of the Revolving Loan Obligations shall be considered a prepayment of the Revolving Loan only if the Revolving Loan is paid in full with funds other than internally generated funds substantially contemporaneously with the prepayment in full of the Term Loan. If the Borrower repays the Obligations in full prior to the end of the Initial Term, the Borrower shall pay the Lender as liquidated damages and compensation for the costs of being prepared to make funds available to the Borrower under this Agreement an amount determined as follows:

(i) If the Normal Rate on the Term Loan shall then be a fluctuating rate as provided in subsection 2.6 hereof at the time of prepayment in full of the Obligations, then the amount payable under this subsection 2.8(b) shall be limited to that determined by multiplying the percentage set forth in the following table applicable to the period in which such prepayment in full occurs by the sum of the outstanding balances of the Revolving Loan and the Term Loan at the date of such prepayment:

	<u>Percentage Multiplier</u>
From	
The date hereof through September 30, 1987	4.0 %
October 1, 1987 through September 30, 1988	3.0 %
October 1, 1988 through September 30, 1989	2.0 %
October 1, 1989 through September 30, 1990	1.0 %
Thereafter	0.0 %

(ii) If the Normal Rate on the Term Loan shall then be at a fixed rate as provided in subsection 2.6 hereof, the prepayment fee applicable to the Revolving Loan shall be as set forth in subparagraph (i) above but the prepayment fee applicable to the Term Loan shall be equal to (A) the respective amount determined as set forth in the immediately preceding subparagraph (i) of this subsection 2.8(b) which corresponds to the particular period during which the prepayment is made plus (B) an amount (which for purposes hereof shall not be deemed less than zero) equal to the present value, for each remaining year of the Term Loan, of (x) the yield as reported (on the date the Normal Rate on the Term Loan was converted to a fixed rate) in the Federal Reserve statistical release H.15 (519) under the caption "U.S. Government Securities/Treasury Constant Maturities" for a Treasury Note with a term equal to that remaining on the Term Loan (which will be obtained by interpolating between the yield reported on the H.15 for specific whole years) on the date the Normal Rate on the Term Loan was converted to a fixed rate less (y) the yield as reported on the date of such prepayment in the Federal Reserve statistical release H.15 (519) under the caption "U.S. Government Securities/Treasury Constant Maturities" for a Treasury Note with a term equal to that remaining on the Term Loan (which will be obtained by interpolating between the yield reported on the H.15 for specific whole years) on the date of such prepayment, multiplied by the outstanding principal balance of the Term Loan at the

time of prepayment for purposes of calculating such amount for the first year and by the principal balance that would have been outstanding at the beginning of each successive year in the remaining term of the Term Loan had the amortization schedule set forth in subsection 2.5 hereof been adhered to; provided, that the rate determined in (y) above will be used as the discount rate in computing such present value.

2.9 Participations. The Lender shall have the right to sell or assign to a Participant or Participants participating interests in the Borrower's Obligations hereunder in such amounts and on such terms and conditions as the Lender shall determine.

2.10 Closing Fee. The Borrower shall pay to the Lender upon the initial advance by the Lender to the Borrower under the Revolving Loan and the closing of the Term Loan a closing fee (the "Closing Fee") in an amount equal to one-half of one percent (0.5%) of the Total Facility.

2.11 Annual Service Fee. The Borrower shall pay to the Lender on each anniversary of the initial advance by the Lender to the Borrower hereunder an annual service fee in an amount equal to one-quarter of one percent (0.25%) of the Total Facility, giving effect to the reduction in the amount of the Total Facility resulting from the amortization of the Term Loan prior to such date.

2.12 Other Fees, Costs and Expenses. All fees, costs and expenses incurred by the Lender: (i) following the occurrence of an Event of Default in verifying or inspecting the Accounts or the Inventory or the Borrower's records with respect thereto; (ii) in connection with opening and maintaining the Depository Account and depositing for collection by the Lender any check or item of payment received by and/or delivered to the Lender on account of the Obligations; (iii) in connection with the Lender's forwarding to the Borrower the proceeds of loans or advances hereunder; (iv) arising from photocopying and other mechanical or electronic reproduction in connection with the Lender's rights of inspection under subsection 7.2 hereof; (v) in connection with the documentation, negotiation, closing and ongoing administration of the loans described herein, including, without limitation, search fees and appraisal fees and expenses; filing and recording fees; fees, costs and expenses of the Lender's attorneys and paralegals; and all taxes (other than income taxes of the Lender) payable in connection with this Agreement or the other Financing Agreements, whether such expenses and fees are incurred prior to, on or after the date hereof (excluding with respect to the ongoing administration of the loans, costs and expenses not incurred as a result of any act or omission by the Borrower); and (vi) arising from the Lender's employment of counsel in connection with protecting or perfecting the Lender's security interest or liens in the Collateral or in connection with any matters contemplated by or arising out of this Agreement in accordance with subsection 10.2 hereof, shall be part of the Obligations, payable within thirty (30) days

following the issuance of a statement therefor to the Borrower and secured by the Collateral. Any portion of the foregoing fees, costs and expenses which remains unpaid within thirty (30) days following the issuance of the Lender's statement shall bear interest from the date of such statement at the appropriate Normal Rate or Default Rate prescribed in subsection 2.6 above, as applicable. The Lender acknowledges receipt of \$250,000 from the Borrower as an advance against such fees, costs and expenses, and the Lender agrees to remit the balance, if any, in excess of such fees, costs and expenses incurred prior to or in connection with Closing the transactions contemplated hereby upon the Lender's determination thereof following Closing.

2.13 Borrower's Loan Account. The Lender shall maintain a loan account ("Loan Account") on its books in which shall be recorded (i) all loans and advances made by the Lender to the Borrower pursuant to this Agreement, (ii) all payments made by the Borrower on all such loans and advances and (iii) all other appropriate debits and credits as provided in this Agreement, including, without limitation, all fees, charges, expenses and interest and sums delivered to the Lender pursuant to subsection 3.5 hereof. All entries in the Borrower's Loan Account shall be made in accordance with the Lender's customary accounting practices as in effect from time to time consistent with the terms of this Agreement. The Borrower promises to pay the amount reflected as owing by it under its Loan Account and all of its other Obligations hereunder as such amounts become due or are declared due pursuant to the terms of this Agreement. The Borrower irrevocably waives the right to direct the application of any and all payments at any time or times hereafter received by the Lender from or on behalf of the Borrower, and the Borrower does hereby irrevocably agree that the Lender shall have the continuing exclusive right to apply and to reapply any and all payments received at any time or times hereafter against the Obligations, of the Borrower due and payable to the Lender hereunder in such manner as the Lender may deem advisable notwithstanding any entry by the Lender upon any of its books and records.

The Borrower expressly agrees that to the extent the Borrower makes a payment or payments and such payment or payments, or any part thereof, are subsequently invalidated, declared to be fraudulent or preferential, set aside or are required to be repaid to a trustee, receiver, or any other party under any bankruptcy act, state or federal law, common law or equitable cause, then to the extent of such payment or repayment, the Obligations or part thereof intended to be satisfied shall be revived and continued in full force and effect as if said payment or payments had not been made.

2.14 Statements. All advances to the Borrower, and all other debits and credits provided for in this Agreement, shall be evidenced by entries made by the Lender in its books and records showing the date, amount and reason for each such debit or credit. Until such time as the Lender shall have rendered to the Borrower

written statements of account as provided herein, the balance in the Borrower's Loan Account, as set forth on Lender's most recent printout or other written statement, shall be rebuttably presumptive evidence of the amounts due and owing to the Lender by the Borrower. Not more than twenty (20) days after the last day of each calendar month, the Lender shall render to the Borrower a statement setting forth the principal balance of the Borrower's Loan Account and the calculation of interest due thereon. Each such statement shall be subject to subsequent adjustment by the Lender but shall, absent manifest errors or omissions, be presumed correct and binding upon the Borrower and shall constitute an account stated unless, within thirty (30) days after receipt of any statement from the Lender, the Borrower shall deliver to the Lender by registered or certified mail written objection thereto specifying the error or errors, if any, contained in such statement. In the absence of a written objection delivered to the Lender as set forth above, the Lender's statement of the Borrower's Loan Account shall be conclusive evidence of the amount of the Borrower's Obligations.

2.15 Payment Dates. Any payment due hereunder on any day other than a Business Day shall be due on the next succeeding Business Day, and if such payment shall bear interest in accordance herewith, interest shall accrue to the date of payment.

3. REPORTING, ELIGIBILITY REQUIREMENTS AND COLLATERAL.

3.1 Reports.

(a) The Borrower shall submit to the Lender the following reports, each of which shall be accompanied by a certificate in the form attached hereto as Exhibit 3.1:

(i) not later than the last Business Day of each month an: Outstanding Car Hire Report, Outstanding Car Hire Report for Lessees That Do Own Accounting, Outstanding Claims Report, Listing of Other Accounts Receivable Balances, Maintenance Rebill Analysis and Aging, Utilization Comparison Report, Average Miles Per Day Report, copy of the Monthly General Ledger (Accounts Receivable - Trade), in the forms attached hereto as Exhibits 3.1(a) through (h) (collectively, the "Monthly Reports" and individually a "Monthly Report"), each of which Monthly Reports shall be as of the last Business Day of the preceding month (and with respect to the initial Monthly Reports furnished to the Lender on the date hereof, as of a date not prior to August 31, 1986);

(ii) as promptly as practicable but in no event later than the fifteenth (15th) day of each month, a Calculation of Monthly Revenue Estimates Report in the form attached hereto as Exhibit 3.1(i), which monthly report shall be as of the last Business Day of the preceding month (and with respect to the initial report furnished to the Lender on the date hereof, as of a date not prior to August 31, 1986);

(iii) on a weekly basis, summary pages of all fleet utilization reports.

(b) The Borrower shall furnish copies of any other reports or information, in a form and with such specificity as is reasonably satisfactory to the Lender, concerning (i) Accounts and any other documents in connection therewith reasonably requested by the Lender or (ii) the leasing activity of the Borrower's rolling stock.

3.2 Eligible Accounts. "Eligible Accounts" shall mean either:

(a) all Accounts constituting per diem rail car hire accounts receivable other than the following: (i) with respect to Account Debtors who do not do their own accounting, Accounts which remain unpaid thirty-one (31) days after the date of the initial car hire report issued with respect thereto and, with respect to Account Debtors who do their own accounting, Accounts which remain unpaid sixty (60) days past term; (ii) Accounts with respect to which the Account Debtor is an Affiliate (other than a Short Line Railroad) or an employee of the Borrower or its Affiliates; (iii) Accounts with respect to which the Account Debtor is the United States of America or any department, agency or instrumentality thereof, excluding Conrail; (iv) Accounts with respect to which the Account Debtor is not a resident of the United States or Canada unless the Account Debtor has supplied the Borrower with an irrevocable letter of credit, issued by a financial institution reasonably satisfactory to the Lender, sufficient to cover such Account in form and substance reasonably satisfactory to the Lender and without right of setoff; (v) specific Accounts for which the prospect of payment in full or performance in a timely manner by the Account Debtor (or by the Person responsible on behalf of the Account Debtor for such payment or performance) is or is likely to become impaired as determined by the Lender in the exercise of its reasonable discretion; (vi) Accounts with respect to which the Lender does not have a first and valid fully perfected security interest; provided, however, that during the period from the date hereof through September 30, 1987, up to \$3,000,000 of Accounts constituting per diem car hire accounts receivable which arise from the leasing of Excluded Rolling Stock and in which the Lender does not have a first and validly perfected security interest shall constitute Eligible Accounts hereunder to the extent that payments on such Accounts are made directly to the Borrower for its own account; (vii) Accounts with respect to which the Account Debtor is the subject of bankruptcy or a similar insolvency proceeding or has made an assignment for the benefit of creditors or whose assets have been conveyed to a receiver or trustee; (viii) Accounts to the extent that the Account Debtor's indebtedness to the Borrower exceeds a credit limit determined by the Lender in the Lender's reasonable discretion following delivery by the Lender to the Borrower of reasonable prior written notice of such credit limit; (ix) Accounts with respect to which the Account Debtor is located in New Jersey unless the Borrower

has filed a Notice of Business Activities Report with the New Jersey Division of Taxation for the then current year; and (x) Accounts with respect to which any disclosure is required in the applicable report in accordance with subsection 3.3 below; or

(b) the Borrower's reasonable and good faith estimate of aggregate anticipated car hire revenue as set forth on the Monthly Revenue Estimates Reports prepared in accordance with the Borrower's ordinary and customary practices and furnished to the Lender in accordance with clause (ii) of subsection 3.1(a) hereof, which shall be reduced by the estimated amount of anticipated car hire revenue not meeting the criteria for Eligible Accounts set forth in clause (a) of this subsection 3.2.

In the event that a previously scheduled Eligible Account ceases to be an Eligible Account under the above described criteria, the Borrower shall notify the Lender thereof.

3.3 Account Warranties. (a) With respect to Eligible Accounts described in subsection 3.2(a) and scheduled, listed or referred to in the initial Monthly Reports attached hereto as exhibits pursuant to subsection 3.1 or in any subsequent Monthly Reports, the Borrower warrants and represents to the Lender that, to the best of the Borrower's knowledge according to the Borrower's records, and except as disclosed in or reserved against in such Monthly Reports: (i) the Accounts are genuine, are in all respects what they purport to be, and are not evidenced by a judgment; (ii) they represent undisputed, bona fide transactions completed in accordance with the terms and provisions contained in the documents delivered to the Lender with respect thereto; (iii) the amounts shown on the applicable car hire report and on the Borrower's books and records and all invoices and statements which may be delivered to the Lender with respect thereto are actually and absolutely owing to the Borrower and are not in any way contingent, subject to adjustments in the ordinary course which are not material in the aggregate; (iv) no payments have been or shall be made thereon except payments immediately delivered to the Lender pursuant to this Agreement; (v) there are no setoffs, counterclaims or disputes existing or asserted with or against the Borrower with respect thereto, subject to adjustments in the ordinary course which are not material in the aggregate, and the Borrower has not made any agreement with any Account Debtor for any deduction therefrom except a discount or allowance allowed by the Borrower in the ordinary course of its business consistent with the Borrower's past practices or then prevailing industry standards; (vi) there are no facts, events or occurrences which would impair the validity or enforceability thereof or reduce the amount payable thereunder as shown on the respective car hire reports, the Borrower's books and records and all invoices and statements delivered to the Lender with respect thereto, subject to adjustments in the ordinary course which are not material in the aggregate; (vii) all Account Debtors have the capacity to contract and are paying their debts generally as they become due and owing, and (viii) such Eligible Accounts are not